(1) Supreme Court, U.S.
FILED

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No. OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
October Term, 1999

IN RE DONALD EDGAR JOHNSON And Proposed Class Of Nonlawyer Public Nightclub Servicers Swindled-To-Indigency By Bad Faith State Agent Interest Groups' Confidence Game Plus Longtime Continuing Quasi Criminal Civil Conspiracy To Interfere With Civil Rights,

Petitioners,

V.

RICHARD GORDON JOHNSON; CARL ALFRED JOHNSON, JR.; THE ESTATE OF CARL ALFRED JOHNSON, SR.; LANDMAN, LATIMER, CLINK & ROBB; CULVER, LAGUE & McNALLY; O'TOOLE, STEVENS, JOHNSON, KNOWLTON & ROLF; O'TOOLE JOHNSON POTTER ROLF GRAFTON & EKLUND, PC; THE STATE OF MICHIGAN; AND ROBERT J. DANHOF, MICHIGAN COURT OF APPEALS 1978-89 CHIEF JUDGE; Jointly And Severally, PLUS WD MICH SD U.S. DISTRICT COURT,

Respondents.

On Petition For Writ Of Certiorari To
U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
Case 99-1903

PETITION FOR WRIT OF CERTIORARI

DONALD EDGAR JOHNSON, In Pro Per 26th Year!
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I. DID THE STATE OF MICHIGAN VIOLATE CONSTITUTION AMENDMENTS 1,5,14; 42 USC § 1985(2)(3); AND 28 USC § 2284(a)(b)(3)?

A. IN JULY-1964, WAS PETITIONER A MICHIGAN CITIZEN WHO OWNED SUBSTANTIAL PERSONAL AND CORPORATE PROPERTIES?

B. WERE PETITIONER'S 9/25/64-4/15/65 NOTES ONLY MEMOS OF COLLATERAL?

C. DID RESPONDENT STATE AGENTS 1964-65 DISGUISE BY, AND 9 YEARS HIDE, UNLAWFUL AGREEMENTS THAT SENT PETITIONER'S JOINT VENTURERS DOWN THE HIGHWAY AS NON-JOINT VENTURE MONEYLENDERS SECURED BY A VALID NOTE - MORTGAGE ON THE PETITIONER-SOLELY-PURCHASED NIGHTCLUB AS SECURITY?

D. WERE 1970-89 STATE DECISIONS WITHOUT REASONABLE ACCESS, DUE PROCESS, EQUAL PROTECTION AND JUST COMPENSATION?

II. DOES THE 11TH AMENDMENT BAR (1) ACCOUNTABILITY AND JUST COMPENSATION WHERE NAMED STATE AGENT INTEREST GROUPS PROCURED AND PROLONGED -- BY UNLAWFUL AGREEMENTS, FRAUDS, AND UNDUE INFLUENCE -- STATE AND FEDERAL DECISIONS THAT DENIED CONSTITUTIONAL RIGHTS; OR (2) DAMAGES WHERE THERE IS A 29-YEARS CONTINUING QUASI CRIMINAL CIVIL CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS?

III. (A) SHALL RESPONDENT STATE AGENTS ANSWER 1999 QUESTIONS UNDER PENALTY OF PERJURY; (B) ARE PETITIONER'S CONSTITUTIONAL CLAIMS SUBSTANTIAL AND NONFRIVOLOUS; (C) SHALL THE 12/19/90 RES JUDICATA COMPLAINT DISMISSAL AND 7/29/91 AFFIRMATION BE SET ASIDE; (D) SHALL THE STATE AGENTS REALTOR, LARNARD LAW FIRM, AND/OR THEIR SUCCESSORS BECOME DEFENDANTS; (E). SHALL PETITIONER'S 1998 REAPPLICATION FOR A 3-JUDGE COURT BE RECONSIDERED BEFORE A COMPETENT JUDGE WITH ACCESS TO THE COMPLETE 1990-98 RECORD; AND (F) SHALL THE STATE AWARD THIS ELDERLY CONFIDENCE GAME VICTIM AN IMMEDIATE $300,000 PLUS FURTHER JUST COMPENSATION AND DAMAGES?

PARTIES TO THE PROCEEDINGS

DONALD EDGAR JOHNSON[n1] And Proposed Class Of Nonlawyer Public Nightclub Servicers Swindled-To-Indigency By Bad Faith State Agent Interest Groups' Confidence Game Plus Longtime Continuing Quasi Criminal Civil Conspiracy To Interfere With Civil Rights,

Petitioners,

V.

RICHARD GORDON JOHNSON,[n2]
CARL ALFRED JOHNSON, JR.,[n3]
THE ESTATE OF CARL ALFRED JOHNSON, SR.,[n4]
LANDMAN, LATIMER, CLINK & ROBB,[n5]
CULVER, LAGUE & McNALLY,[n6]
O'TOOLE, STEVENS, JOHNSON, KNOWLTON & ROLF,[n7]
O'TOOLE JOHNSON POTTER ROLF GRAFTON & EKLUND PC,[n8]
THE STATE OF MICHIGAN, And ROBERT J. DANHOF, Michigan Court of Appeals 1978-89 Chief Judge, Jointly And Severally, Plus **WD Mich SD U.S. ISTRICT COURT**

Respondents.

[n1] In behalf of himself, his proof of ownership of stolen 1955-65 KANDY TAPES & RECORDS CORP. (Indiana-Amer.Fed.Musicians) (no parent), his stolen KANDY TAPES & RECORDS CORP.(Mich-AFM), Kandy Music Publishers (BMI), Homestead, Mobile Home/Office/Studio, 6½ Years' Wages, and 29 Years' Ongoing Litigation Costs.

[n2] plus JOHNSON MOLD & MFG CO., JOHNSON TECHNOLOGY, AND JOHNSON DEVELOPMENT (Mich corporations):

[n3,n4] plus PORT CITY MACHINE & TOOL CO. (Mich corp);

[n5] plus LANDMAN LATIMER CLINK & ROBB, PC;

[n6] plus CULVER SHERIDAN KNOWLTON EVEN & FRANKS ATTYS;

[n7] plus O'TOOLE JOHNSON POTTER ROLF GRAFTON & EKLUND PC

[n8] plus PARMENTER & O'TOOLE (Mich. Corp.)

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RELATED: DONALD EDGAR JOHNSON v. Estate of CARL A. JOHNSON, SR. No. 97521 Mich. Supreme Ct at 444 Mich 957 (1994), S.Ct. #94-146 writ of mandamus denied; reh denied.

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In Re DONALD EDGAR JOHNSON, #98-2190, (6th Cir. 11/9/98) reh den 12/23/98; Pet'n for writ of mandamus den 5/17/99 S Ct #98-1443. S Ct Reporter p 1786.

In Re DONALD EDGAR JOHNSON, #99-1903, 6th Cir. den 9/28/99 reh den 12/17/99

JURISDICTION

The interlocutory Order sought to be reviewed was file-dated 9/28/99.

The denial of a 10/8/99-mailed petition for rehearing en banc was 12/17/99, and there was no extension of time to file for a petition for writ of certiorari.

The denial of a 10/8/99-mailed petition for certification of questions to Supreme

Court was 12/17/99.

The provisions believed to confere jurisdiction to review are 28 USC §§ 1651(a), 2101(c)(f); and S. Ct. Rule 33.1(d).

Service has been made on the Solicitor General of the United States pursuant to S. Ct. Rule 29.4(a), and the Court of Appeals for the Sixth Circuit did not certify to the U.S. Attorney General the fact that **the constitutionality of State agent interest groups' 1964-99 stealing private properties for public and private use, influencing votes, and conspiracy to interfere with civil rights in violation of Amendments 1,5,14 plus 42 USC § 1985(2)(3) and 28 USC §§ 2284(a)(b)(3)** were drawn into question.

CONSTITUTION AND LAWS INVOLVED

"Congress shall make no law * * * respecting the right of the people * * * to petition the Government for a redress of grievances." Const. Amend. 1.

"No person shall * * * be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation." Const. Amend. 5.

"The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state." Const. Amend. 11.

"All persons born * * * in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the

laws." Const. Amend. 14.

"Conspiracy to interfere with civil rights * * * (2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State * * * conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protction of the laws; * * * (3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws * * * whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators." 42 USC § 1985(2)(3). (Emphasis added).

"The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this Title, and of Title "CIVIL RIGHTS," and Title "CRIMES." for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect;

but in all cases where they are not adopted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State where the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitutuion and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. In any action or proceeding to enforce a provision of section 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes [42 USCS §§ 1981-1983, 1985, 1986], * * * the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs." 42 USCS § 1988. (Emphasis added).

"Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term [session] at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith." 28 USCS § 144.

"(a) Any justice, judge, or magistrate of the United States shall disqualify himself

in any proceeding in which his impartiality might reasonably be questioned. (b) He shall also disqualify himself in the following circumstances: (1) Where he has personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings; (2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it; * * * (4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party of the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding; (5) He * * * (iv) Is to the judge's knowledge likely to be a material witness in the proceedings." 28 USCS § 455(a)(b)(1)(2)(4) (5)(iv).

"Notwithstanding any provision of law to the contrary, the magistrate shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties." 28 USC § 636(b)(1)(C).

"(b) * * * (3) A magistrate may be assigned such additional duties as are not inconsistent with the Constitution and laws of the United States * * * (c) * * * (4) Notwithstanding the provisions of paragraph (3) of this subsection, at the time of reference to a magistrate, the parties may further consent to appeal on the record to a judge of the district court in the same manner as on an appeal from a judgment of the district court to a court of appeals. Wherever possible the local rules of the district court and the rules promulgated by the conference shall endeavor to make such appeal inexpensive. The district court may affirm, reverse, modify, or remand the

magistrate's judgment: (5) Cases in the district courts under paragraph (4) of this subsection may be reviewed by the appropriate United States court of appeals upon petition for leave to appeal by a party stating specific objections to the judgment. Nothing in this paragraph shall be construed to be a limitation on any party's right to seek review by the Supreme Court of the United States." 28 USCS § 636(b)(3)(c)(4)(5).

"The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 USCS § 1331.

"The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to * * * copyrights and trademarks. Such jurisdiction shall be exclusive of the courts of the states in * * * copyright cases." 28 USC § 1338(a).

"The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 USC § 1651.

"Any * * * writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within 90 days after the entry of such judgment or decree. * * * (f) * * * the enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court..." 28 USCS § 2101(c)(f).

"A court of the United States may not grant an injunction to stay proceedings in a State court **except as expressly authorized by Act of Congress, or when necessary to aid of its jurisdicition,** or to protect or affectuate its judgments." 28 USCS § 2283. (Emphasis added).

"A district court of 3 judges shall be

convened when otherwise required by Act of Congress." 28 USC § 2284(a). (Emphasis added).

"In any action required to be heard and determined by a district court of three judges under subsection (a) of this section, the composition and procedure of the court shall be as follows:

(1) Upon the filing of a request for three judges, the judge to whom the request is presented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge. The judges so designated, and the judge to whom the request was presented, shall serve as members of the court to hear and determine the action or proceeding.

(2) If the action is against a State, or officer or agency thereof, at least five days' notice of hearing of the action shall be given by registered or certified mail to the Governor and attorney general of the State.

(3) A single judge may conduct all proceedings except the trial, and enter all orders permitted by the rules of civil procedure except as provided in this subsection. He may grant a temporary restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted, which order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the district court of three judges of application for a preliminary injunction. A single judge shall not appoint a master, or order a reference, or hear and determine any application for a preliminary or permanent injunction or motion to vacate such an injunction, or enter judgment on the merits. Any action of a single judge may be reviewed by the full court at any time before final

judgment." 28 USC § 2284(b)(1-3).

"In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of an Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provision of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality." 28 USC § 2403(a).

"In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of the mind of a person may be avered generally." FRCVP 9(b).

"**Motion and Proceedings Thereon.** The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interogatories, and admissions on file together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A Summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages." FRCVP 56(c).

"A motion to alter or amend a judgment shall be filed no later than 10 days after entry of the judgment." FRCVP 59(e).

"On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: * * * (5) ... it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time * * * This rule does not limit the power of a court to * * * set aside a judgment for fraud upon the court. * * * the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action." FRCVP 60(b)(5)(6).

"A party objecting to the recommended disposition of the matter shall promptly arrange for the transcription of the record, or portions of it as all parties may agree upon or the magistrate judge deems sufficient unless the district judge otherwise directs. Within 10 days after being served with a copy of the recommended disposition, a party may serve and file specific, written objections to the proposed findings and recommendations. A party may respond to another party's objections within 10 days after being served with a copy thereof. The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions." FRCVP 72(b).

"**Writs of Mandamus and Prohibition, and Other Extraordinary Writs (a) Mandamus or Prohibition to a Court: Petition, Filing, Service, and Docketing.** (1) A party petitioning for a writ of mandamus or prohibition directed to a court shall file

a petition with the circuit clerk with proof of service on all parties to the proceeding in the trial court. The party shall also provide a copy to the trial court judge. All parties to the proceeding in the trial court other than the petitioner are respondents for all purposes.
(2)(A)The petition shall be titled "In re [name of petitioner]."
(B) The petition shall state:
(i)the relief sought;
(ii)the issues presented;
(iii)the facts necessary to understand the issues presented by the petition; and
(iv)the reasons why the writ should issues.
(C)The petition shall include copies of any order or opinion or parts of the record that may be essential to understand the matters set forth in the petition.
(3)When the clerk receives the prescribed docket fee, the clerk shall docket the petition and submit it to the court.
(b) Denial; Order Directing Answer; Briefs, Procedence. (1)The court may deny the petition without an answer. Otherwise, it shall order the respondent, if any, to answer within a fixed time.
(2)The clerk shall serve the order to respond on all persons directed to respond.
(3)Two or more respondents may answer jointly.
(4)The court of appeals may invite or order the trial court judge to respond or may invite amicus curiae to do so. The trial court judge may request permission to respond but may not respond unless invited or ordered to do so by the court of appeals.
(5) If briefing or oral argument is required, the clerk shall advise the parties, and when appropriate, the trial court judge or amicus curiae.
(6)The proceeding shall be given preference over ordinary civil cases.
(7)The circuit clerk shall send a copy of the final disposition to the trial court judge..." F.R.A.P. 21.

STATEMENT

[Evidence was delivered to Clerk pursuant to S Ct R. 32. Upper Number 000 =1991-97 and added Appendix pages; T000 = State Transcript page; and S-000 = State Exhibit.]

BAD FAITH STATE AGENT INTEREST GROUPS, BASED ON POLITICAL AFFILIATION WITH RACIAL OVERTONES, 1964-70 "BAIT AND SWITCH" CONFIDENCE GAME-STOLE 42 YEARS OLD STATE-CONTROLLED PUBLIC NIGHTCLUB SKILLED SERVICER'S PRIVATE CORPORATE AND PERSONAL PROPERTIES AND FABRICATED SIMILAR PROPERTIES FOR PUFFED-UP COLLATERAL IN FINANCIAL INSTITUTIONS FOR PUBLIC AND PRIVATE USE-INFLUENCING VOTES WITHOUT PROVIDING JUST COMPENSATION; -- THEN 29 YEARS CONTINOUSLY INTERFERED WITH REASONABLE ACCESS, DUE PROCESS, AND EQUAL PROTECTION INCLUDING THREATENED VIOLENCE, IMPAIRED VISION, AND ATTEMPTED MURDER TO COVERUP-OBSTRUCT JUSTICE.

> "'Confidence Game' is term of act involving taking of money by fraud from victim by means of trick or deception after victim's confidence has first been secured through some false representation or deception." State v. Carr.

In 8/1/64-9/25/64, the Respondent LANDMAN partnership represented Petitioner and his family members' preliminary family venture to purchase a Muskegon nightclub represented by to-be O'TOOLE lawyers.

In 9/25/64-4/16/65, Petitioner's family members -- Carl-Sr, Richard, and Carl-Jr -- did not loan or give him full custody/control of their contributions.

Rather, Petitioner Donald Edgar Johnson (Don) and his 2 younger brothers pooled $6,000 in the custody and control of his brother(s).

Don went on a "to-be-incorporated within 3 years" phono records production/sales-nightclub purchase joint venture.

Unable to locate proper memos of collateral in a strange town while traveling, Don mailed 3-year 6% promissory

notes -- without consideration -- to his then-trusted brothers as memos of collateral.

Don's note stubs, his 5x8½" ledger sheets, and a joint "LANDMAN" bank checking account were the only bookkeeping during the joint venture's first 7 months until the jointly-chosen and jointly-purchased Muskegon Heights nightclub was opened for business.

Bad faith State agents representing Don and members of his family got **NON**LAWYER Don to sign so-called lawful and temporary agreements (until incorporation) stipulating that he was not on a joint venture; then secretly directed his family partners to go down the highway disguised as permanent non-participating non-joint venture moneylenders secured by Don's so-called valid "blanket" $20,600 3-years promissory note and a mortgage on the joint venture-purchased land and building.

The "blanket" note was without consideration because it replaced previous "without consideration" so-called promissory notes that had to be good only as memos of collateral.

Said disguises were unlawful agreements for the Michigan Liquor Control Commission and financial institutions that were secretly drafted and 1965-74 9 years hidden from trusting NONlawyer Don by the respondent O'TOOLE and LANDMAN law firms that included then-attorney Albert J. Engel, Jr. and members of the to-be respondent CULVER 1983 partnership.

In year 1 of the 1964-80 15 years (duration of land contract) joint venture the Engel-recommended Larnard-Jr and Larnard-Sr law firm represented Don's Kandy Tapes & Records Corp. for transferring Indiana to Michigan.

In year 2, a brother's then-attorney Charles A. Larnard, Jr., instructed the venturers to hire outside bookkeeping

and hold off incorporating until profits improved. 1094

During year 6, Don still believed that he was earning fair equity in the joint venture's belated incorporation while State agent interest groups directed the further stealing of his corporate and personal properties.

State agents with conflicting interests used (a) a bogus Donald E. Johnson signature, (b) an invalid Kandy Tapes And Records Corp. (Illinois), and (c) Don's valid Kandy Tapes & Records Corp. (Indiana-AFM and/or Michigan-AFM) assets as puffed-up collaterals for big-bucks financing public and private uses-influencing votes.

Further, State agents registered an invalid worthless Kandy Tapes And Records Corp (Mich-AFM) using Don's signature on a separate page of a State-printed corporation registration form with signature on one page and the switched invalid Kandy Tapes And Records Corp. name on another.

After refusal to accept 33% of a $45,000-capitalized corporation of the venture and a resulted foreclosure judgment without due process by said attorney Larnard-Jr who became an unqualified county circuit judge, Don verbally turned over his equity (Appendix, 132a) to his then-trusted father-partner for properly winding down the venture while Don would be mitigating damages in California from his burglarized and stolen mobile home/office.

Premised on said secret-from-Don unlawful agreements, the bad faith State agent respondent LANDMAN firm immediately directed Don's father to direct Don to provide (a) a $1 Quit Claim Deed of the nightclub land to respondent LANDMAN's respondent attorney Culver, S-947 (b) an assignment of the 1964-80 land contract to respondent LANDMAN's attorneys Culver

and Boven, S-948 (c) assignment of the $31,000 liquor license to their new Jay Corp that included said 2 brothers, but excluded Don and his father, S-943,S-950 and (d) Don's 8/19-12/4/70 S-953 Power of Attorney to his father.

The respondent State agents invited nightclub creditors, including said realtor, to accept 50¢ on the dollar in an unsigned letter from a "Donald E. Johnson".

Don and his legal aid attorney 1970-72 sued the trailer park corporation and was awarded but $1 for his stolen mobile home/office and contents by a San Diego court's unfair proceeding.

State agents 1965-71 kept Don's name on the nightclub land for 6 years statute of limitations that invalidated $30,000+ Giovanni/MacJacob federal liens.

Don RECEIVED **NO COMPENSATION** for his private corporate and personal 2136 properties -- including entertaining and operating the public nightclub 100 hours weekly 1964-70 for 5½ years in the cruel confidence game!

The O'TOOLE associate attorney Robert Forsyth opined that Don owed creditor Mary "Tex" Champion over $15,000, so Don 1972-73 worked 7 days weekly for 1 year -- working off that creditor's so-called "debt".

Don sued the 3 Johnson respondents for restitution while failing to disqualify their dual conflicting interests attorneys.

State agents 1973-89 provided pro se nonlawyer Don with infirm court procedures, inadequate litigation of Constitutional claims, no remedy, and interfered with his civil rights.

The O'TOOLE firms represented the ill-gotten FMB Lumberman's Bank representing Don's father's $448,000+ 1986 estate against Don's denied $500,000 claim.

By 1990, a State agent perpetrator

Engel-Jr of the 1964-70 confidence game grand theft had become a Court of Appeals for the 6th Circuit Chief Judge.

The 1990-99 magistrate-one judge district court was prejudiced and unqualified. It refused to disqualify respondent law firms from representing dual conflicting interests of sellers and 3 Johnson buyers-disguised as moneylenders. And allowed those firms to avoid answering Don's requests for admissions.

Respondent State agents **switched** Respondents' evidence for Petitioner's evidence in both the prejudiced district court and court of appeals -- thus procuring and prolonging the erroneous 12/19/90 Opinion[293] and granting of respondent State agent's motion for res judicata dismissal of Don's 4th amended complaint.[291]

A prejudiced 1991 court of appeals panel -- without reviewing Petitioner-nonmovant's evidence -- wrongly opined that it was an action dismissal for failure to state a claim and affirmed.[839]

On 12/11/92, Judge Engel-Jr intervened.

Judge Norris, of said 1991 court of appeals panel, was on the 1999 panel which 9/28,12/17/99 denied a writ of mandamus to district court that would have mandated a hearing to review Don's constitutional claims, inter alia.

The basis for 1990-99 district court jurisdiction was Amends. 1,5,14; 42 USC § 1985(2)(3); and 28 USC § 1331.[183]

ARGUMENT

I. THE STATE OF MICHIGAN VIOLATED CONSTITUTION AMENDMENTS 1,5,14; 42 USC § 1985(2)(3) AND 28 USC 2284(a)(b)(3).

The State-licensed realtor, dual debtor-creditor representation law firms, State Attorney General special agents, and State judges -- in the exercise or attempted exercise of their official authority -- (a) disguised, with secret-

from-Don unlawful agreements, family joint venturers for going down the highway as moneylenders to Don under color of state law; (b) cheated, lied, and confidence game-stole state-controled public nightclub skilled servicer Don's near-total corporate and personal properties for public and private use-influencing votes; (c) procured and prolonged court decisions by frauds for depriving swindled-to-indigency pro se nonlawyer Don and his privately-owned Kandy Tapes & Records Corp. of their properties; then (d) 29 years interfered with Don's civil rights in an ongoimg quasi criminal civil conspiracy.

NAMED STATE AGENT JUDGES 1970-94 DENIED REASONABLE ACCESS, DUE PROCESS, EQUAL PROTECTION, AND JUST COMPENSATION TO PRO SE NONLAWYER DON IN VIOLATION OF AMENDMENTS 1,5,14.

1. The Acts Of The State Judges Were Arbitrary, Unduly Oppressed, Unjust, And Invidious Discriminations That Greatly Injured Petitioner In His Personal And Corporate Properties.

All this was done or directed by State licensed agents and officers of the State whose Attorney General and highest court refused accountability or a "just compensation" remedy.

Const. Amends. 1,5,14; 42 USC § 1985(2)(3).

"Where state officers in the exercise or attempted exercise of their official authority, deny to any citizen, whether an individual or a corporation, the equal protection of the laws or deprive him of his property without due process of law, the act is that of the state, and comes within the prohibition of the fourteenth constitutional amendment." Douglas Park Jockey Club.

"[T]he act of the Commission was arbitrary, unduly oppressed, and an unjust discrimination against the complainant whereby it was denied the equal protection of the laws

of the state of Kentucky, and such discrimination, if permitted to stand, would greatly injure the complainant and its property, and that, as all this was done by the officers of the state, it was done by the state itself, and therefore controvenes the fourteenth amendment to the constitution of the United States. Id.

"The right to petition the government for a redress of grievances includes the right of access to the courts; that right is also subject to due process protection in that the opportunity must be at a maningful time in a meaningful manner. U.S.C.A. Const. Amends. 1,5." Matter of N.C. Trading.

"In proving damages relating to claim of conspiracy to deprive plaintiff of civil rights * * * plaintiff should have been allowed to present evidence of * * * injuries * * * and losses caused by those injuries sustained. * * * 42 USCA 1985 (2,3)." Lenard.

"[P]olitical discrimination is prohibited by Sec. 1985. * * * Sec. 1985 reaches discrimination based on political affiliation with racial overtones." Keating.

DURING THE 1970-99 INTERFERING WITH CIVIL RIGHTS, BAD FAITH STATE AGENT PERPETUATOR OR SPLINTER INTEREST GROUPS JOINED THE FABRICATING, CHEATING, LIEING, AND STEALING OF SERVICER TO STATE-CONTROLLED PUBLIC NIGHTCLUB PRO SE NONLAWYER DON'S FAMILY, CAREER, AND NEAR-TOTAL PRIVATE PROPERTIES UNDER COLOR OF STATE LAW FOR ADDITIONAL PUBLIC AND PRIVATE USE-INFLUENCING VOTES -- THEN THREATENED VIOLENCE, ATTEMPTED MURDER, BURGLARIZED, PLANTED OR STOLE EVIDENCE, AND ALTERED STATE AND FEDERAL COURTS' RECORDS OF HIS BIRTH, FAMILY, MILITARY, CAREER, AND COURT PROCEEDINGS TO COVERUP-OBSTRUCT JUSTICE.

1. The Named State-Licensed Realtor's, Conflicting Debtor-Creditor Land Sellers', And Joint Venture Attorney's State Attorney General's Special

Assistant's Unlawful 9/28/64-4/16/65 Moneylender Disguises Were Premised On Their 9/28/64, 12/30/64, 1/6/65, And 1/11-1/14/65 Unlawful Disguises And Family Members' Coverup Of The 9/25-9/28/64 $6,000 Pool Not In Petitioner's Custody Or Control.

2. The Bad Faith Realtor And Petitioner's Partners 9/28/64 Thru 4/16/65 Secretly Conspired With The Bad Faith Land Sellers' Attorneys And Joint Venture Attorney-State Attorney General Agent's Liquor License Sellers' Attorneys Benind Petitioner's Back.

3. Nonlawyer Don Was Victim Of State Agents And His Partners' Cruel And Unusual Confidence Game To Force Don To Long Term Solely Operate And Attempt To Purchase A Large State-Licensed Nightclub On Unlawful Terms Against Insurmountable Odds Until The Short Term Unlawful Invalid $20,600 Note Was Collectable.

a. Don Was Sent Down The Highway Locked Into Substantial 9/25/64-8/65 Joint Venture-Acquired Debts By State Agents Who Directed Don's Partners To Be Non-Participating Non-Joint Venturers.

b. Petitioner Thereafter Had To Confront The "Club 87" Competitor-Controlled Unionized Bartenders And Waitresses Plus The Area's Tripled Competition, Without Partners' Joint Protective Security-Participation Or Ample Working Capital-Refinancing From Promised Incorporation.

"The just compensation clause of the Fifth Amendment was designed to bar government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole." National Board of Y.M.C.A.

c. The Bad Faith State Agents And

Joint Venture Partners Were Thus Positioned To Steal Or Watch The Stealing Of Don's Private Personal And Corporate Properties For Public And Private Use-Influencing Votes Without Compensation.

d. The State Liquor Control Inspecters Couldn't Or Wouldn't Halt The Confidence Game Rip-Off Because They were Not Aware That The Short Term Moneylenders Were Really Long Term Joint Venturers In Disguise.

"No person shall * * * be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation." Const. Amend. 5.

"The Fifth Amendment's prohibition against the taking of private property for public use without just compensation applies against the states through the Fourteenth Amendment." Webb's Fabulous Pharmacies, Inc, et al.

"All persons born * * * in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws." Const. Amend. 14.

Douglas Park Jockey Club, supra.

"[P]laintiffs brought this action alleging that they were bilked by Fletcher's confidence game." Davis,

THUS, THE BAD FAITH CATHOLIC STATE AGENT REALTOR AND "DIVIDED AND CONQUERED" PROTESTANT FAMILY PARTNERS -- BY UNLAWFUL STATE AGENTS-DRAFTED AGREEMENTS -- STOLE PETITIONER'S SUBSTANTIAL PRIVATE PROPERTIES FOR PUBLIC AND PRIVATE USE-INFLUNCING VOTES.

WHEN OTHER RELIGIOUS/POLITICAL/ETHNIC GROUPS DISCOVERED THE SCAM, THEY EXECUTED A SIMILAR RIP-OFF UTILIZING FABRICATED ASSETS.

1. Their State Agents Also Discriminated Against Nonlawyer Petitioner In Violation Of 42 USC § 1985. Keating; Lenard. Supra.

The bad faith State agent interest groups hampered Don's ability to present an effective case in federal court. 42 USC § 1985(2).

" "Claimant under civil rights conspiracy statute * * * must show that the conpiracy hampered the claimant's ability to present an effective case in federal court. 42 U.S.C.A. § 1985(2)." Rutledge.

"[T]o establish a sufficient cause of action for 'conspiracy to deny equal protection of the laws' under section 1985(3), a plaintiff must prove (1) a conspiracy of two or more person, (2) who are motivated by a specific class-based, invidiously discriminatory animus to (3) deprive the plaintiff of the equal enjoyment of rights secured by the law to all, (4) and which results in injury to the plaintiff as (5) a consequence of an overt act committed by the defendants in connection with the conspiracy." Simmons

"[A] claimant must show an agreement or a 'meeting of the minds' by defendants to violate the claimant's constitutional rights." Id, 1377.

"It simply must be shown that there was a 'single plan, the essential nature and general scope of which was known to each person who is to be held responsibile for its consequences'." Id, 1378.

ACCOUNTABILITY AND JUST COMPENSATION WERE DENIED BY THE STATE'S EXECUTIVE, TREASURY, AND JUDICIAL BRANCHES.

1. The State Attorney General Wrote That It Couldn't Afford To Prosecute.

2. The Treasury Department's Corporation And Securities Commission

Did Nothing To Correct Faulty Incorporation Forms Allowing A Signature To Be On Separate Page From Name Of Corporation. 2140, 2141

3. The Judiciary's State Supreme Court Repeatedly Refused Remedy.

THE STATE IS LIABLE FOR CONDUCT OF ITS AGENTS WHO BAITED ITS GAINFULLY EMPLOYED CITIZEN-TRAVELING ENTERTAINER- MUSIC PRODUCER WITH A FAMILY JOINT VENTURE, SECRETLY SWITCHED AND LONGTIME HID ITS BEING A MONEYLENDING VENTURE, PRETENDED ITS CITIZEN WAS EARNING FAIR EQUITY IN THE VENTURE'S INCORPORATION, AND CONFIDENCE GAME-STOLE HIS INVESTED PERSONAL AND CORPORATE PROPERTIES FOR PUBLIC/PRIVATE USE-INFLUENCING VOTES.

> State was liable * * * veterinarian's conduct effected a de facto taking requiring compensation under the Fifth Amendment..." Restrepo.

PETITIONER'S CIVIL RIGHTS WERE BEING CONTINUOUSLY INTERFERED WITH SINCE THE 9/25/64 START OF THE JOINT VENTURE IN VIOLATION OF 42 USC § 1985(2)(3).

And they conspired to deny Don equal protection of the laws in violation of 42 USC § 1985(3) and:

> "No person shall be denied the equal protection of the laws." Mich. 1963 Const. Art. 1 § 2.

A. IN JULY-1964, PETITIONER WAS A MICHIGAN CITIZEN WHO OWNED SUBSTANTIAL PERSONAL AND CORPORATE PROTERTIES.

In July-1964, Don had 1955-64 utilities hookup at his 334 Waterview-Muskegon homestead address listed on AFM contracts and copyright papers and where he parked his mobile home and Michigan-licensed small motorboat whenever possible.

His 1954 wife Wanda seduced men while Don was working; gave birth to Don's cousin's son but told everyone that it was Don's; emptied Don's mobile home of her personal properties; stole money and quit Don's Kandy enterprises; refused

to travel with Don any further; lived with another man, abused her son and lived at her mother's apartment while married to Don and longtime collecting Don's child support; again refused to join Don and children despite their pleadings; filed a fraudulent 1962 divorce that Don deserted her; and never took Don to court.

Don's Father's Will Showed Don's Children As Neice And Nephew Rather Than Grandson And Grandaughter.

In July-1964, Petitioner Don Owned Kandy Tapes & Records Corp, Kandy Music Publishers, N. Muskegon Real Estate, A Mobile Home-Office, "King Of Organ With A Beat" Trade Mark, Music/Recording Instruments, 9 Passenger Car, Copyrighted Music And Child Custodys.

B. PETITIONER'S 9/25/64-4/15/65 NOTES WERE ONLY MEMOS OF COLLATERAL.

There was a 9/25-9/28/64 Richard-Don-Carl-Jr $6,000 MBTC escrow. 390,391,440, 442,449,599,752A-752E,2134

Richard and Carl-Jr received 9/25/64 and 9/28/64 memos of collateral that looked like promissory notes. 752H

But Don's so-called promissory notes were invalid for want of consideration.

Richard couldn't recall whether he had custody/control of the MBTC escrow, 441

But he thought that a MBTC joint account had been set up. 447

Realtor Mark recalled that $1,000 came from the MBTC escrow account for the initial 11/5/64 purchase money. 426

Richard couldn't recall where the $12,000 came from for the 12/18/64 HUNB joint account. 441-447

The respondent 3 Johnsons never 9/25/64-4/15/65 allowed Don full custody or control of their moneys. 440-455,752A-752L

Between 12/18/64 and 5/7/65, Don and Richard signed checks over $400; 390, 437440,442,449,599,S-275a

Don never banked any of their moneys in

his own bank accounts. Red Ledger Exh 393

Richard, not Don, negotiated terms. 440

Don did not solely purchase the nightclub of his very own choice.

There was a 1964 promise to fairly incorporate the venture within 3 years 141 that was State agent-postponed 11/22/66. 1094

The promise to incorporate was State agent-canceled, 4/9/70, 495,510 verified on 4/20/70, 515 and sealed with a foreclosure on 5/20/70. 570

C. RESPONDENT STATE AGENTS 1964-65 DISGUISED BY, AND 9 YEARS HID, UNLAWFUL AGREEMENTS THAT SENT PETITIONER'S JOINT VENTURERS DOWN THE HIGHWAY AS NON-JOINT VENTURE MONEYLENDERS SECURED BY A VALID NOTE - MORTGAGE ON THE PETITIONER-SOLELY-PURCHASED NIGHTCLUB AS SECURITY.

Joint venture attorney Engel-Jr and realtor Mark directed Harry Gibson and the 3 Johnson joint venturers to go down the highway as moneylenders. S-225-228, 10/4/99 for Declaratory Judmt, Binder E

State agent realtor Mark and the respondent law firms knew about the 4 moneylender disguises that State agents attorneys Engel-Jr and Hipkiss hid from Don for at least 9 years, 4/15/65 to 5/16/74. 518,565

1. Between 9/25/64 And 9/28/64, Petitioner Don Went On A Joint Venture With Family Members To Purchase A Public Nightclub Including A Liquor License.

2. Don And His Family Members Richard And Carl-Jr 9/25-9/28/64 Pooled $6,000, **THAT WAS NOT IN DON'S CUSTODY**, For Qualifying To Purchase A Part-Year "Resort" Liquor License For A Possible 400 Causeway-Muskegon Nightclub Joint Purchase.

"Pooling may be defined to be the aggregation of property or capital belonging to different persons, with a view to common liabilities and profits." American Biscuit

& Mfg Co.

3. Where Don Did Not Have Custody Of the Pooled Moneys, His 9/25/64 Thru 9/28/64 3-Years Promissory Notes #1 ($2,000) And #2 ($1,100) To His Family Members Were **Without Consideration**, Invalid, And Only Memos Of Collateral Until Promised Incorporation Of The Venture Within 3 Years.

4. State Citizen Don Was On Said 9/25-9/28/64 Joint Venture With Family Members Who Were Then 9/28/64 Thru 4/16/65 **Disquised** -- By Named Respondent State Agents-Drafted **Unlawful Agreements** -- As Moneylenders To Don Secured By Don's So-Called Valid 3-Year Promissory Notes-Mortgage On His So-Ca;;ed Solely-Purchased Nightclub.

a. **AFTER** The $6,000 Pool Was Formed For Possible "Resort" License And 400 Causeway-Muskegon Nightclub Land Purchase, The Named State-Licensed Realtor Solicited Don's 9/28/64 **UNLAWFUL** Power Of Attorney To His Family Member To Negotiate Terms And Begin Purchase Of The 3521 Hoyt-Muskegon **Hts** Nightclub In family Member Richard's Name, Not In The Name Of The Joint Venturers.

b. Don's 9/28/64 Thru 4/15/65 Promissory Notes Were Also Without Consideration, Invalid, And Only **Memos Of Collateral** Because The Moneys Remained In His Family Member Richard's Full Or Joint Custody And Control In His Pocket, The Muskegon Bank & Trust Co., Or Hackley Union Nat'l Bank.

c. Respondent Bad Faith State Agents **And** The Respondent 3 Johnsons Hid From Don (In Respondent O'TOOLE Partnership Offices and elsewhere) Their Four 2/8, 2/15, and 2/16/65 **UNLAWFUL** Agreements

S-225 And Other Unlawful Agreements For The Michigan Liquor Control Commission And Financial Institutions For At Least 9 Years, 4/15/65 to 5/16/74.518

On 2/8/65 and after respondent LANDMAN's Hackley Bank client Harry Gibson had already received a 12/15/64 $8,000 memo of collateral that replaced "Edgar" with "E" (not by Don),752-I State agents attorney Engel-Jr and Sun Agency realtor Mark directed Harry Gibson to fill out and sign the unlawful "Statement of Money Lender" agreement for the State agent Michigan Liquor Control Commission -- premised on the unlawful $14,000 HEG-RGJ savings account "B" agreement (without Don)752C -- deceptively declaring that Gibson was 2/8/65 loaning Don a second $8,000 to be secured by:

> "Trust Agreement dated February 9, 1965 whereby Richard G. Johnson as Trustees hold title, jointly and in the surviver, to a $14,000 savings account in Hackley Union National Bank and Trust Company pending approval of the license transfer. At that time, a mortgage or security interest will be substituted."S-225

Similar attorney Engel-Jr and realtor Mark-prepared unlawful agreements were prepared for the respondent 3 Johnsons.S-226-228

On 2/9/65, the respondent State agent O'TOOLE firm's attorney Engel-Jr drafted the unlawful 2/9/65 Trust Agreement.476

Also on 2/9/65, State agents-programmed Richard and Carl-Jr projected $180,000 sales,469 operation costs, and jointly hired the nightclub's bookkeeper, Floyd Epplett.

Thereafter, on 2/15/65, Don first saw the 2/9/65 Trust Agreement when Richard coerced family joint venturer nonlawyer Don to sign the unlawful agreement as if it was lawful while assuring Don that he was earning fair equity in the venture's incorporation for his

contributions.

Bare in mind that only the respondent O'TOOLE firm a/k/a Engle & Engel's attorney Engel-Jr was representing Don's interests since 12/4/64.

Douglas Park Jockey Club; Matter of N.C.Trading; Keating; Rader; National; Rutledge. Supra.

"Corporation cannot be required to use its property for benefit of public without receiving just compensation for services rendered by it." Smyth.

"Equitable relief will be afforded where the judgment has been procured as result of calculated and premeditated conspiracy to defraud." Jungersen.

"The deprivation by state action of a constitutionally protected interest in 'life, liberty, or property' is not itself unconstitutional; what is unconstitutional is the deprivation of such interest without due process of law." Mertik.

D. THE 1970-89 STATE DECISIONS WERE WITHOUT REASONABLE ACCESS, DUE PROCESS, EQUAL PROTECTION, AND JUST COMPENSATION.

The 6/26/70 Larnard default judgment[568] was without due process where (a) Larnard's secretary Peliotis withheld Kandy Tapes & Records Corp for Larnard and others while registering a worthless fabricated Kandy Tapes And Records Corp. for Don and Carl-Jr; (b) Larnard was the Larnard-Jr who 11/22/66 postponed[1094] incorporation in favor of Carl-Jr's 4/9/70 filibuster and Richard's 5/20/70 foreclosure on Don dba Musikist; (c) Judge Larnard told Don not to show at the 6/26/70 hearing in favor of Carl-Sr and/or attorney Hipkiss representing Don; then issued the default judgment because Don never showed; and (d) Don never had a realistic opportunity to appear in court and protect interest in property by presenting a meritorious defense.

"A federal court can enjoin the enforcement

of state court judgments fraudulently obtained or void for lack of due process." Simon.

"Default judgment violated due process when entered where no realistic opportunity for party to appear in court and protect interest in property by presenting meritorious defense." People v. Braden, Ill.

Between 5/14/73 and 12/9/74, Judge Larnard was unqualified as above; Judge Schoener was nonjudicially involved in 1970-74 representing the nightclub $8,000 unpaid-to-this-day creditor-Muskegon Co-Op Federal Credit Union against Don dba Musikist; and Judge Piercey was unqualified per 2½ hours 1981 hearing before Judge Bosman in neighboring Ottawa County. See "Bosman" State transcript that was never reviewed by higher courts.

Requests for admissions were 1973-74 denied. T146 (So were 1990 Requests for Admissions except for LANDMAN alleging Don's allegations were untrue). 79-93

Due process was 1974-89 denied.

Those State agent decisions were procured and prolonged by the frauds on the courts of bad faith State agents with dual conflicting interests.

Access to the courts was unreasonable in that the unqualified 1970 judge Larnard, attorney Hipkiss, and Carl-Sr tricked Don into not showing for the 6/26/70 foreclosure hearing for protecting Don's interests.

The 1974 judge Piercey utilized delay tactics before and during the partial trial and allowed unqualified defendants' attorney McNally to not show at the 12/30/74 scheduled hearing to settle facts.

Facts were belatedly settled by Judge Piercey without a hearing in 1979 and after respondent Danhof (who was nonjudicially involved in Muskegon Co-Op Credit Union not collecting its $8,000)

became state court of appeals Chief Judge.

The 1983 Piercey replacement #1, judge Pannucci -- who conducted a secret Grand Jury investigation -- denied his scheduled evidentiary hearing premised on respondent LANDMAN firm's unsigned fraud that the case was already fully and fairly litigated.

The 1986 county circuit and probate judges denied evidentiary hearings on the mistaken ground of res judicata where previous incomplete proceedings had been without due process.

Respondent Chief Judge Danhof's court of appeals judges delayed then blocked timely evidentiary and transcripts review by false and confusing delay tactics.

Waiver or suspension of cost of $5,000 transcript was blocked by LANDMAN firm's attorney McNally's LIE that Don's 1972-74 wife had just sold her nightclub.

After Don 1976-79 bootstrapped himself off public workfare and piecemeal filed it in the trial court per court of appeals 2/5/76 instruction, Danhof's court of appeals dismissed Don's appeal: (a) for failure to file it in the court of appeals per said 2/5/76 instruction, and (b) for over 18 months' delay in filing! See Danhof court 11/23/82 "no judge" order!!!

The Michigan Supreme Court denied leave to appeal "because the Court is not persuaded that the questions presented should be reviewed by this Court".

Equal protection was denied where hearings were with interruptions, secret collusion between opposing attorneys McNally and Olsen, skipping over pertinent and dragging out insignificant events, and cutting short the trial before Don's full preponderance of evidence was properly presented and before Don's closing argument -- always discriminating against Don.

Simon; Nat'l Board of Y.M.C.A.; Webb's Fabulous Pharmacies, Inc, et al; Matter

of N.C. Trading; Keating. Supra.

"[A] judgment of a state court, even if it be authorized by statute, whereby private property is taken for the State or under its direction for public use, without compensation made or secured to the owner, is, upon principle and authority, wanting in due process of law required by the Fourteenth Amendment of the Constitiution of the United States, and the affirmance of such judgment by the highest court of the State is a denial by that State of a right secured to the owner by that instrument." Chicago. Burlington & Q. Railroad.

"The prohibition of the 14th Amendment of the Federal Constitution against taking property without due process of law refers to all instrumentalitites of a state, and is therefore violated wherever any person, by virtue of public position under a state government, deprives another of any right protected by that amendment against deprivation by the state." Id.

Rader; National; Webb's; Smyth; Jungersen; Mertik; Rutledg; Simmons; Lenard; Restrepo. Supra.

II. THE 11TH AMENDMENT DOES NOT BAR (1) ACCOUNTABILITY AND JUST COMPENSATION WHERE NAMED STATE AGENT INTEREST GROUPS PROCURED AND PROLONGED -- BY UNLAWFUL AGREEMENTS, FRAUDS, AND UNDUE INFLUENCE -- STATE DECISIONS THAT DENIED A STATE CITIZEN'S CONSTITUTIONAL RIGHTS; OR (2) DAMAGES WHERE THERE IS A 29-YEARS CONTINUING QUASI CRIMINAL CIVIL CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS.

"The Eleventh Amendment does not bar actions for money damages arising from constitutional torts committed by state officials who are then sued in their individual capacities in federal court. USCA Const. Amend. 11." Banas.

"Exception to rule that arm and agent of state also enjoy Eleventh Amendment immunity exists if suit is one challenging

constitutionality of a state official's action. USCA Const. Amend. 11." Abick.

"[A] state official is stripped of his official status and subject to the consequences of his conduct when he acts in an unlawful manner." Kelley.

III.(A) REPONDENTS-ANSWERED 1999 QUESTIONS UNDER PENALTY OF PERJURY WOULD RESOLVE MANY ISSUES,

Where Don's 1990 Requests For Admissions were not allowed to be answered by the unqualified magistrate-one judge district court, Don's 1999 pertinent questions should be answered under penalty of perjury. See proposed questions quoted from an 8/3/99-mailed proposed order to the court of appeals, (Appendix, 148a).

"[P]laintiffs brought this action alleging that they were bilked by Fletcher's confidence game. * * * The court adjudged each defendant jointly and severally liable for certain portions of the judgment,and apportioned liability for the remainder * * * finding authority in both RICO and the Ohio CSFA awarded the plaintiffs $951,307.72 in attorneys' fees and expenses." Davis.

"467. Pursuant to the conspiracy, defendants agreed to violate the Racketeer Influenced and Corrupt Organizations Act [18 USCS § 1961(1)(B) (D)] (RICO), by raiding then stealing plaintiff's Kandy Tapes & Records Corp-Kandy Music Publishing Co. properties via interstate transportation plus fraudulent sale(s) of Kandy securities." Rejected 5th Amended Complaint, p 85.[918]

(B) PETITIONER'S CONSTITUTIONAL CLAIMS ARE SUBSTANTIAL AND NONFRIVOLOUS.

From Petitioner's 4th Amended Complaint that was 12/19/90 res judicata dismissed:[183]

"EMERGENCY PLAINTIFFS' PROPOSED 4TH AMENDED COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES FOR TAKING 1922-1973-ACQUIRED PRIVATE PROPERTIES AND LIBERTIES FOR PRIVATE AND PUBLIC USE WITHOUT COMPENSATION OR 1973-

1989 BASIC FUNDAMENTAL CONSTITUTIONAL ENTITLEMENTS IN STATE COURTS". Cover.

"...himself and * * * crime victims discriminated against where state prosecutors declined to prosecute and state courts declined to provide non-prejudicial due process, equal/parental protection of the laws and just compensation against undue local influence and continuing frauds upon the courts. * * * COUNTY TRIAL COURT'S 1974 DISMISSAL WAS PROCURED AND 15 YEARS PROLONGED BY CONTINUING FRAUDS UPON THE STATE COURTS..."[185]

The lower courts should have upheld 28 USC 2284: (a) by setting a hearing to review Don's substantial nonfrivolous constitutional claims premised on (a) inadequate and infirm state courts proceedings, (b) where Don's stolen properties were used to influence votes, and (c) where 1970-94 decisions were in violation of the federal Constitution and laws -- premised on bad faith State agent interest groups' 1964-70 confidence game-stealing Don's private personal and corporate properties for public and private use-influencing votes followed by a 29 years continuing coverup-obstruction of justice.

"For the purpose of determining substantiality of constitutional question presented by those seeking three-judge court, allegations of the complaint are assumed to be true and it is the contentions of the complaint which are examined." Knight.

In a confidence game, State agents stole substantial private properties without providing just compensation; then State courts denied due process.

Mertik; Simon; People v. Braden, Ill.; Davis. Supra.

"Federal district courts have appellate jurisdiction over state courts decisions which can be collaterally attacked for extrinsic fraud." Moffett.

Matter Of N.C. Trading, Supra.

"State and federal litigations are intended to be supplemental and cumulative." Amer. Pharmaceutical.

"[T]he concept of collateral estoppel cannot apply in a subsequent federal action when the party against whom the earlier decision is asserted did not have a full and fair opportunity to litigate the issue in question in the earlier case." State Judgments.

"State court exercises concurrent jurisdiction with federal district court over cases arising under both sections of Civil Rights Act providing for civil action for deprivation of rights and section of Civil Rights Act relating to conspiracy to interfere with civil rights. 42 USCA §§ 1983,1985." Benmum.

Smyth. Supra.

(C) THE 12/19/90 RES JUDICATA COMPLAINT DISMISSAL AND 7/29/91 AFFIRMATION MUST BE SET ASIDE,

The 1970-83 county circuit court proceedings were without due process-just compensation and the 1963-89 circuit and probate proceedings were both wrongly precluded under doctrine of res judicata.

"Federal court may enjoin state proceeding that is precluded under doctrine of res judicata." Donelan.

The 1990 Opinion and Judgment were procured and prolonged by respondent bad faith State agent interest groups' switching and mischaracterizing Petitioners' evidence in both 1:90cv175 district court and the 91-1160 court of appeals.

Jungersen; Lenard. Supra.

"Evidence is viewed in light most favorable to nonmovant and all reasonable inferences drawn in nonmovant's favor when considerering motion for summary judgment. FRCVP 56(c) 28 U.S.C.A." Laborers'.

"Summary judgment is proper when, viewing evidence in light most favorable to

nonmovant, there is no genuine issue as to any material fact." Voinche.

"Courts may vacate a judgment 'whenever that action is appropriate to accomplish justice.'" Allstate.

"Where motion to dismiss was granted while plaintiff's motion to amend was still pending, dismissal must be vacated since trial court's failure to even consider evidence presented in motion to amend was abuse of discretion." Thompson.

Petitioners' 1991-99 motions for Rule 60(b)(6) relief were fruitless despite sufficient pleadings.

Rader. Supra. International

"Motion for a new trial suspends finality of a judgment." Overbee.

"[P]robability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." Cramption

"[W]here the power of a court of original jurisdiction to set aside a judgment on the ground of fraud is properly invoked, such power is not affected by the fact that the judgment has been * * * affirmed by a reviewing court." Louisville.

(D) THE STATE AGENTS REALTOR AND LARNARD LAW FIRM AND THEIR SUCCESSORS MUST BECOME DEFENDANTS.

Realtor Mark and successors to the Larnard and Larnard law firm should aLSO be held accountable for their wrongdoings.

"In prosecution of defendant, who was charged with conspiring to commit the crime of confidence game with two others * * * The charge of conspiracy to commit confidence game and the charge of confidence game are separate and distinct offenses, separately punishable, and proof of one does not hinge upon proof of the other". ROLL.

"The gist of the crime of conspiracy is the unlawful agreement." Id.

"Evidence was sufficient to sustain

conviction on charge of conspiracy to commit confidence game." Id.

1. The court should consider that this case be joined by an appropriate and impartial U.S. Prosecuting Attorney.

"Government need not show that defendant participated in all aspects of conspiracy: it need only prove that defendant was party to general conspiratorial agreement." U.S. v. Ledezma 26 F3d 260, cert den Zajac v. U.S., 115 S Ct 349, 513 US 942, 130 L Ed d 305, appeal after remand 62 F3d 145, cert den 116 S Ct 681, 133 LEd2d 529.

"To convict defendant of conspiracy to obstruct justice, government was required to prove that there was an agreement whose object was to obstruct justice, that defendant knowingly and voluntarily joined in the agreement, and that at least one overt act was committed in furtherance of object of agreement. 18 U.S.C.A. §§ 371, 1503, 1512." U.S. v. Mullins (1994 CA6 Mich) 22 F3d 1365.

"Agreement or confederation to commit crime is what is punishable as conspiracy, if any overt act is taken in pursuit of it, whether or not contemplated crime is consummated." U.S. v. Warshawsky (1994 CA6 Mich) 20 F3d 204, reh and suggestion for reh den.

"To obtain conviction for conspiracy to violate civil rights, government must prove tha defendant knowingly agreed with another person to injure victim in exercise of right guaranteed under Constitution. 18 U.S.C.A. § 241," U.S. v. Epley (1995 CA6 Ky) 5 F3d 571, reh and suggestion for reh den, and (#94-5102).

"Conspiracy is continuing crime which is not completed at conclusion of agreement." U.S. v. Edgecomb (1990 CA6 Oh) 910 F2d 1309, reh den

"In order to prove existence of conspiracy, evidence must establish agreement between two or more persons to act together in

committing offense and overt act in furtherance of conspiracy. 18 U.S.C.A. § 371." U.S. v Reifsteck (1968 CA6 Oh) 841 F2d 701.

(E) PETITIONER'S 1998 REAPPLICATION FOR A 3-JUDGE COURT MUST BE EXPEDIENTLY RECONSIDERED BEFORE A COMPETENT JUDGE WITH ACCESS TO THE COMPLETE 1990-99 RECORD.

1. Contentions Of Don's 4th Amended Complaint Were Not Examined By The Judge Hillman 1998-99 District Court. Knight, Supra.

2. The 1990-99 Magistrate-One Judge district court failed to uphold the Constitution and laws.

a. Amendments 1,5,14 Rights Were Not Upheld Over The Interests Of Bad Faith State Agent Interest Groups. Roche, Mallard,

3. 28 USC § 2284(a)(b)(1-3) Was Not Upheld For Convening A 3-Judge Court.

a. Contrary to 28 USC § 2284, Judge Hillman attempted to dismiss this case during his 1998 hearing. Binder E

"A district court of 3 judges shall be convened when otherwise required by Act of Congress. * * * A single judge shall not * * * enter judgment on the merits..." 28 USC § 2284(a)(b)(1-3).

"They sought a declaratory judgment that Michigan's * * * is unconstitutional, prayed for injunctive relief, and requested the convening of a three-judge court under 28 USC § 2284(a)." Good.

"[T]he Chief Judge of the U.S. Court of Appeals for the Sixth Circuit convened this three-judge court under 28 USC § 2284(b)." Id.

"This three-judge court has jurisdiction over this dispute under 28 USC 1343, 42 USC § 1983, and 28 USC § 2284(a)." Id.

"[C]onstitutional claim was not subject to being left to state courts under doctrine of abstention * * * where procedures contained therein did not afford plaintiffs

an adequate forum for vindication of federal constitutional rights." Hernandez.

"A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress or when necessary to aid of its juridiction or to protect or affectuate its judgments." 28 USC 2283. (Emphasis added).

"Civil rights action * * * is express statuary exception to 28 USCS § 2283." Trainor.

"District Court should have invoked procedures for convening District Court of 3 judges, rather than assigning case to magistrate for trial and recommendation. * * * 28 USCA §§ 636,2284." Armour.

"Under * * * 28 USC § * * * 2284(b)(3)], if in fact substantial constitutional question has been presented, single trial judge has no authority to dismiss case." Hartman. (Emphasis added).

4. FRCVP 60(b)(6) Was Not Upheld For Setting Aside Or Vacating The 12/19/90 Opinion And 12/19/90 Judgment. Plus The 1/5/94 Injunction Mandating A Magistrate-One Judge Court.

Rader. Supra.

"In general, relief from judgments has been given under Rule 60(b)(6) in cases where judgment was obtained by improper conduct of the party in whose favor it was rendered or resulted from excusable default of the party against whom it was directed under circumstances not covered by Rule 60(b)(1) to (5) which required the application of Rule 60(b)(6) in order that the case be tried on its merits and justice be done." U.S. V Cato Bros., Inc.

"Rule 60(b) recognizes court's inherent power to grant relief from judgment where court has been subjected to fraud and fraud upon court is matter which is so grave that relief is afforded without regard to any time limitation." Great Coastal. (Emphasis

added).

"Gross negligence or misconduct on the part of counsel has been found in some cases to satisfy the 'exceptional circumsatances requirement." U.S. v. Real. (Emphasis added).

"Rule 60(b)(6) applies in 'unusual and extreme situatations where principles of equity mandate relief'." Ole.

"Rule 60(b)(6) was intended to make available those grounds which equity has long recognized as basis for relief." Bros. Inc.

Rader, Supra.

5. 42 USC § 1985(2)(3) Was Not Upheld For Awarding Damages Against Quasi Criminal Civil Conspirators' Interfering With Civil Rights.

42 USC § 1985(2)(3).

(F) THE STATE MUST AWARD THE ELDERLY CONFIDENCE GAME VICTIM AN IMMEDIATE $300,000 AND FURTHER JUST COMPENSATION PLUS DAMAGES.

1. 77-Years Old World War II Veteran Petitioner Received No Compensation For 1964-70 100 Hours Weekly To The State Of Michigan's Muskegon County.

2. And He Received No Compansation For His Substantial Private Properties Confidence Game-Stolen For Public And Private Use-Influencing Votes.

"I have never been compensated for my confidence game-stolen private substantial corporate and personal properties including my Kandy Tapes & Records Corp. (Amer.Fed. Musicians of U.S. and Canada) with stereo tapes/records that made Billboard Top 10 plus other charts' #1 best sellers, my Kandy Music Publishers (BMI) with copyrighted music, my Travelite mobile home-office-studio, my 334 Waterview, N. Muskegon, Michigan lakeside homestead, my 6½ years 1965-73 100 hours weekly skilled labor wages, and my 1970-99 29 years-thousands of hours and dollars expended in pursuit of impartial justice without resorting to violence against

Respondents' 29 years ongoing conspiracy to interfere with my civil rights, (5) that irreparable damages and infirm/inadequate Michigan state and federal courts procedures require this Court's supervisory power..." Petitioners' Certified Statement, 3/9/99 Petition To Supreme Court For Writ Of Mandamus, p38."

RELIEF

1. Certiorari should be GRANTED.

2. Don's 1999 pertinent questions should be answered under penalty of perjury. See Questions, Appendix-148a.

3. The Court should order: (A) that A QUALIFIED ONE-JUDGE DISTRICT COURT ENSURE THAT THE COMPLETE 1990-98 RECORD IS IN THE FILE FOR HOLDING A FIRST-EVER FEDERAL HEARING TO (1) REVIEW SUBSTANTIAL AND NONFRIVOLOUS CONSTITUTIONAL CLAIMS THAT BAD FAITH STATE AGENTS AND THEIR CLIENTS 1964-70 CONFIDENCE GAME-STOLE HIGHLY-SKILLED NONLAWYER PUBLIC NIGHTCLUB SERVICER'S HARD-WON TOTAL CORPORATE PLUS NEAR-TOTAL PERSONAL PROPERTIES/POWER OF ATTORNEYS FOR PUBLIC AND PRIVATE USE-INFLUENCING VOTES WITHOUT REASONABLE ACCESS, DUE PROCESS, EQUAL PROTECTION, OR JUST COMPENSATION -- FOLLOWED BY A 29 YEARS CONTINUING CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS; (2) DETERMINE ABSTENTION, CONDITIONAL QUASI-CRIMINAL CIVIL CASE CERTIFICATION, CONDITIONAL CLASS CERTIFICATION, STAY OF STATE 1970-94 PROCEEDINGS, AND 3-JUDGE ISSUES; AND (3) DETERMINE THAT THERE SHALL BE AN ORDER GRANTING (i) A NEW OR PARTIALLY-NEW PRETRIAL PROCEEDING, OR (ii) LEAVE TO FILE A 6TH AMENDED COMPLAINT; --

OR (B) that A 3-JUDGE COURT BE CONVENED PURSUANT TO "OTHERWISE" REQUIREMENT OF 28 USC § 2284(a)(b)(3) WHERE 42 USC § 1985 IS EXPRESS STATUARY EXCEPTION TO 28 USC § 2283 AND THIS CASE SHALL NOT BE DISMISSED BY A ONE JUDGE DISTRICT COURT; --

OR (C) that A 3-JUDGE DISTRICT COURT

EXPEDITIOUSLY AWARD an IMMEDIATE $300,000 AND FURTHER JUST COMPENSATION PLUS DAMAGES TO THE ELDERLY CONFIDENCE GAME VICTIM.

4. The confidence game-stolen 9/25/64 $2,000 Richard, 9/28/64 $1,100 Carl-Jr, 1/5/65 $5,000 Augusta B;ack (possessed by son Beryl), 3/65 $2,000 realtor Mark, the 4/15/65 $20,600 "blanket" invalid 3 year promissory notes (possessed by attorney William Hipkiss or his privies), plus 1998 $200 and 1999 $200 civil contempt fines must be declared invalid and returned to Petitioner.

5. A qualified eye doctor should be appointed for examining Petitioner's vision where (a) there was a severe loss of vision during drivers license exam, 1998, (b) the same eye doctor wants a return exam, and (c) an unsigned, undated notice arrived 3/13/00 at Florida temporary motorhome location advising suspension of Michigan driving privileges for failure to show at 3/7/00 exam by a Michigan Dept. of State examiner in Muskegon.

CERTIFICATE

I Donald Edgar Johns, do solemnly swear: (1) that I will conduct myself uprightly and according to the law; (2) that I will support the Constitution of the United States; and (3) that relief is not available in any other form or any other court.

Executed on March 16, 2000.

DONALD EDGAR JOHNSON, In Pro Per
Counsel For Petitioners
1657 S Getty St - PO Box 5407
Muskegon, MI
(Phone Installation Available).

APPENDIX

KING OF
Organ with a Beat!
from STEREO Hi-Fi
DON JOHNSON
Organ Combo DeLuxe
Don Johnson
Don Johnson

APPENDIX

APPENDIX A: 5/30/90 - 9/28/99 OPINIONS, ORDERS, FINDINGS OF FACT, AND CONCLUSIONS OF LAW ENTERED IN CONJUNCTION WITH THE 9/28/99 JUDGMENT SOUGHT TO BE REVIEWED

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5/30/90 The Magistrate Was Not A Magistrate Judge:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

DONALD EDGAR JOHNSON, Case No. 1:90cv175
v. ORDER
RICHARD GORDON JOHNSON, et al,

* * * Plaintiff is directed to consolidate his first proposed Amended Complaint, Second proposed Amended Complaint and third proposed Amended Compaint into one consolidate document to be deemed his proposed fourth Amended Complaint * * * Plaintiff's Motion on his proposed first, second and third Amended complaints are denied without prejudice to Plaintiff filing his Motion to allow his fourth Amended Complaint. s/HUGH W. BRENNEMAN, JR., U.S. MAGISTRATE."

6/5/90 "UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION FILED
6/7/90

DONALD EDGAR JOHNSON, Et Al.,
Plaintiffs, Case No. 1:90CV175
vs Hon. Benjamin F. Gibson
RICHARD GORDON JOHNSON, Et Al.,
Defendants.

ORDER GRANTING PLAINTIFFS' MOTION TO FILE FOURTH AMENDED COMPLAINT

Plaintiffs having filed a motion to proceed on plaintiffs' proposed fourth amended complaint and the Court having heard arguments thereon.

The motion to file a fourth amended complaint is GRANTED pursuant to Hearing dated June 4, 1990. FRCP 15.

IT IS SO ORDERED.

Entered: 6/5/90 S/HUGH W. BRENNEMAN, Jr
United States Magistrate."

ORDER GRANTING PLAINTIFFS' MOTION TO FILE FOURTH AMENDED COMPLAINT

Plaintiffs having filed a motion to proceed on plaintiffs' proposed fourth amended complaint and the Court having heard arguments thereon.

The motion to file a fourth amended complaint is GRANTED pursuant to Hearing dated June 4, 1990. FRCP 15.

IT IS SO ORDERED.

Entered: 6/5/90 S/HUGH W. BRENNEMAN, Jr United States Magistrate."

6/25/90 Magistrate's Denial At The Onset Of Pretrial Proceeding Of Plaintiffs' 5/18/90 Motion To Stop Culver and O'Toole Law Firms' Dual Representation Of (1) Public Nightclub Sellers, And (2) Don's Father And Two Brothers (Three Johnsons) Joint Venturers Law Firms-Disguised-As-Moneylenders Buyers -- While Granting Defendants' Motions For Protective Orders Staying Don's Requests For Admissions Until District Judge Ruled On Respondents' Motions To Dismiss:

P62 THE COURT: No, Mr. Hipkiss didn't write this, Mr. Johnson. It says on the bottom, "The above documents were given to me by Attorney William Hipkiss." and it's signed by Donald Johnson. He didn't prepare this. You did. * * *

THE COURT: Well the last bit is written in the same handwriting as the entire rest of the document with the exception of the signature, which is Donald E. Johnson. That's written in a different handwriting. * * *

P73 THE COURT: * * * I will grant the motions to stay and will further stay any other discovery in this matter pending resolution of Judge Gibson's * * * decision on the motions to dismiss. * * *

THE COURT: I haven't ruled on that motion yet. I've taken that under advisement." Magistrate's 6/25/90 Hearing pp 31-74.

7/10/90 Magistrate's Order Postponing The Stopping Of Law Firms' Dual Respresentation While Granting Defendants' Motions For Protective Orders.

"ORDER (2 pgs) by Magistrate Hugh W. Brenneman Jr. granting deft lawfirms' motions for protective order [53-1] [51-1] & taking pltf's motion to disqualify the Culver & O'Toole Law Firms defts from representing the Johnsons defts [45-1] under advisement and will be ruled on at such other time as deemed appropriate by the Court..." DC Docket No. 77.

12/5/90 District Judge Gibson's Dispositive Hearing:

"...Mr. Johnson * * * you have made your position clear today this morning. What I'm going to have to do is sort through the arguments and the record and the pleadings and the briefs and make a judgment on the various motions pending before the Court * * * any subsequent papers filed will not be considered. I'm only going to consider what's before the Court now. So it won't do any good to file any additional pleadings because they will not be considered. I have all I need before me now to decide these motions. So hopefully within the next two weeks we won't have any additional pleadings filed because they will not be considered.

The Court will take the matter under advisement and issue an opinion on all relevant pending motion. Thankyou." 12/5/90 Depositive Hearing Before Judge Gibson pp 23,25.

12/19/90 District Judge's WITHOUT DUE PROCESS Opinion Based On FRAUD UPON COURT That Plaintiffs' Evidence Was Defendants' Deceptive Evidence:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, Plaintiff, FILED 12/18/90
File No. 1:90-CV-175
Hon. BENJAMIN F. GIBSON

RICHARD GORDON JOHNSON, et al., Defendants.

OPINION

"This civil rights action alleging a

violation of Title 42 United States Code Section 1985 is the latest chapter in the continuing saga of Donald Edgar Johnson's dispute with his brothers, their father, their attorneys, the State of Michigan, and Michigan Court of Appeals Judge Robert J. Danhof. Pending before the Court are various motions to dismiss this matter as well as various motions filed by the plaintiff.

A dispute arose between the plaintiff, Donald Edgar Johnson, and his father and brothers sometime in the mid-1960s. The dispute led to litigation and a trial was held by the Muskegon County Circuit Court. A judgment adverse to the plaintiff was entered by that court on December 9, 1974. The plaintiff failed to perfect a timely appeal with the Michigan Court of Appeals. Thereafter, the plaintiff unsuccessfully petitioned the circuit court on several occasions for relief from the December 9, 1974 judgment.

Unlike most unsuccessful litigants, the plaintiff refused to accept the fact that he had lost his case. Rather, with a degree of perseverance rarely seen in even pro se litigants, he has sought to collaterally attack the merits of the circuit court judgment in a number of forums.

The plaintiff, apparently to support the merits of this action, has compiled for the Court what appears to be all of the orders entered by this court and others in response to his quizotic attempts to have the original circuit court decision vacated.[1] This compilation reveals that numerous appeals have been presented by the plaintiff to the Michigan Supreme Court and Court of Appeals.[2] It also reveals that all of these appeals were summarily denied. The plaintiff's dossier also contains the denial of a petition for certiorari by the United States Supreme Court. Furthermore, it indicates that following the death of his father, a defendant in the original circuit court action, the plaintiff unsuccessfully attempted to collaterally attack the original judgment by filing a claim against the estate

and appealed the dismissal of his claim without success. Finally, the dossier also indicates that this Court has rejected the plaintiff's allegations on at least three other occasions and that these decisions were affirmed by the Sixth Circuit.

All of the defendants argue that the plaintiff's latest attempt to attack the circuit court judgment is, like the previous ones, barred by the doctrine of res judicata. This doctrine 'is founded upon the generally redognized public policy that there must be some end to litigation and that when one appears in court to present his case, is fully heard, and the contested issue is decided against him, he may not later renew the litigation in another court.' Heiser v. Woodruff, 327 U.S. 726,733 (1946). Thus, a judgment on the merits in a prior suit involving the same parties or their privies bars a second suit based on the same cause of action. E.G., Federated Dep't Stores, Inc. v. Moitie, 452 U.S. 394,398 (1981). Moreover, even if a party believes that a judgment was blatantly incorrect, he may not commence a second action. Rather, he must seek appellate review of the matter.

After reviewing the pleadings in this matter, the Court believes that the plaintiff's 'civil rights' complaint is simply the latest attempt to attack the judgment entered by the circuit court back in 1974. The doctrine of res judicata prohibits such an attack. Therefore, the defendants' motion to dismiss are granted and the plaintiff's fourth amended complaint is dismissed with prejudice.

Furthermore, the Court strongly advises the plaintiff, as other have in the past, that this litigation is over and his attempts to overturn the decision of the circuit court are futile. Unfortunately, given the number of times this matter has been presented to this Court and others in the past sixteen years, the Court believes that the plaintiff will not heed this advise. Therefore, the plaintiff will be enjoined from submitting any further

documents or pleadings regarding this matter with this Court and the Court's clerk will be enjoined from accepting such documents or pleadings from him.

DATED: December 18, 1990.

s/BENJAMIN F. GIBSON,
U.S. DISTRICT JUDGE.

1. The dossier contains eighty orders that have been issued by seven different courts.

2. According to the plaintiff, one of the orders issued by the Michigan Court of Appeals permitted him to file an independent action alleging fraud upon the Court. See Mich. Ct. R. 2.612(C)(3), 7.206(B)(3). Following the entry of that order, the plaintiff filed such an action in the Muskegon County Circuit Court against his father and brothers. The trial court granted the defendants' motion for summary disposition and dismissed the complaint. The dismissal was affirmed by the Michigan Court of Appeals on appeal and the Michigan Supreme Court declined to review the case."

12/19/90 District Judge's FRAUD UPON COURTS C-O-M-P-L-A-I-N-T Dismissal Based Upon FRAUD UPON COURTS 12/19/90 Opinion That Defendants' Evidence Was Plaintiffs'.

It Barred Attack Grounded On Extrinsic Fraud On County Circuit Court 1973-89 Pltf vs 3 Johnsons Case No. 73-C7432-CK 1974 Partial Trial's Dismissal Without Due Process Appeal Of Right-With Evidence Or Review Of Constitutional Claims, Denied All Of Pltf's Motions, And Granted Defts' Motions For 11th Amendment Immunity Plus Summary Res Judicata Disposition Of 4th Amended Complaint:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON,
Plaintiff,

FILED 12/18/90
File No. 1:90-CV-175
Hon. BENJAMIN F. GIBSON

RICHARD GORDON JOHNSON, et al.,
Defendants.

JUDGMENT

At a session of the Court held in and for said District and Division, in the City of Grand

Rapids, Michigan, this 18th day of December, 1990.

PRESENT: HON. BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE

In accordance with the Opinion dated December 18, 1990, IT IS HEREBY ORDERED that the defendants' motions to dismiss are GRANTED and the plaintiff's complaint is DISMISSED with prejudice.

IT IS FURTHER ORDERED that all motions filed by the plaintiff are DENIED.

IT IS FURTHER ORDERED that the Clerk of the United States District Court for the Western District of Michigan is ENJOINED from accepting from the plaintiff any pleadings or documents seeking to collaterally attack the judgment entered by the Muskegon County Circuit Court in File No. 73-7432-CK.

IT IS FURTHER ORDERED that the plaintiff is ENJOINED from filing any pleadings or documents seeking to collaterally attack the judgment entered by the Muskegon County Circuit Court in File No. 73-7432-CK. Failure to comply with this Order on the part of the plaintiff may result in a finding that he is in contempt of this Court.

IT IS SO ORDERED.

s/BENJAMIN F.GIBSON, U.S. DISTRICT JUDGE"

(Emphasis added).

7/29/91 Resulted Court Of Appeals' Erroneous Affirmation Of District Judge's So-Called "Action" Dismissal Based On Court Of Appeals' Erroneous Opinion That 12/19/90 Res Judicata Dismissal Was For Failure To State Claim:

"No. 91-1160

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

DONALD EDGAR JOHNSON — Filed 7/29/91

Plaintiff-Appellant

v. — O R D E R

RICHARD GORDON JOHNSON; CARL ALFRED JOHNSON, JR.; THE ESTATE OF CARL A. JOHNSON, SR.; THE LAW FIRM PARTNERSHIP OF LANDMAN, LATIMER, CLINK AND ROBB; CULVER, LAGUE AND MCNALLY; O'TOOLE, STEVENS, JOHNSON, KNOWLTON AND ROLF, STATE OF MICHIGAN, O'TOOLE, JOHNSON, POTTER, ROLF,

GRAFTON AND EKLUND, P.C.; ROBERT J. DANHOF, Michigan Court of Appeals Chief Judge,
Defendants-Appellees.

NOT RECOMMENDED FOR FULL TEXT PUBLICATION

* * *

BEFORE: KEITH and NORRIS:, Circuit Judges, and WEBER, District Judge.

Donald Edgar Johnson, a pro se Michigan citizen, appeals the district court's judgment dismissing his action filed pursuant to 42 U.S.C. § 1985 for failure to state a claim. * * * Seeking monetary relief, Johnson sued the estate of his father, his brothers, several law firms, and a state court judge. Johnson alleged that the defendants had conspired against him during various state and federal court proceedings. The district court determined that Johnson's claims were barred by res judicata and dismissed the case for failure to state a claim. Johnson has filed a timely appeal.

Upon review, we determine that the district court properly dismissed Johnson's case for failure to state a claim. Construing the complaint in the light most favorable to Johnson, and accepting all the factual allegations as true, we determine that Johnson undoubtedly can prove no set of facts in support of his claims that would entitle him to relief. * * * Accordingly, we affirm the judgment for the reasons set forth in the district court's judgment filed on December 18, 1990...

*The Honorable Herman J. Weber, U.S. District Judge for the Southern District of Ohio, sitting by designation." (Emphasis added).

1/21/92 "Rhenquist" Supreme Court DENIED Certiorari To 6th Circuit Court Of Appeals No. 91-1160 Decision That Was Procured By Defendants' FRADD UPON COURTS.

4/17/92 District Judge Gibson's FRADD ON COURTS Order That 12/19/90 Judgment Dismissed The Case While DENYING DUE PROCESS-EQUAL PROTECTION FRCVP 60(b)(5(6) Evidentiary Hearing For Determining That The 12/19/90 Judgment Was

Procured And Prolonged By Frauds Upon The Courts. Note erroneous entry of 12/18/90 rather than 12/19/90 and erroneous FRCP 60(b) one year time limit:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

DONALD EDGAR JOHNSON, et al, FILED 4/16/92

Plaintiffs Case No. 1:90CV175

vs Hon. Benjamin F. Gibson

RICHARD GORDON JOHNSON, et al,

Defendants.

ORDER REJECTING PLEADINGS

Judgment in this action was entered December 18, 1990 granting defendants' motion to dismiss the complaint. Plaintiff subsequently appealed to the United States Court of Appeals for the Sixth Circuit and the decision of this court was affirmed. The Supreme Court therafter apparently denied plaintiff's petition for a writ of certiorari, and on March 9, 1992, denied plaintiff's petition for rehearing.

Plaintiff now seeks to file in this court an emergency motion for an evidentiary hearing to determine if defendants perpetrated a fraud on the court(s) by mischaracterizing the nature of the plaintiff's evidence prior to the December 18, 1990 judgment and thereafter. Plaintiff has also attempted to file four supplements in his emergency motion which he seeks to file.

Plaintiff's emergency motion and the supplements to it will not be accepted for filing, since a final judgment has already been entered dismissing this action and the case is no longer pending in this or any other federal court, Rule 12(f), Federal Rules of Civil Procedure; W.D. Mich. L.R.24(b).

To the extent tha plaintiff may seek to construe this as a Rule 60(b) motion challenging this court's December 18, 1990 judgment, it is untimely. Such motions when predicated on 'fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party' must be made within one year. Rule 60(b), FRCP.

The court notes that the plaintiff contends that he was prohibited from filing a motion to reconsider the December 18, 1990 judgment, at the time it was entered, due to the injunctive language in the judgment prohibiting him from collaterally attacking a previous state court judgment. A careful reading of that language, however, clearly shows that it did not preclude plaintiff from taking further action under the Federal Rule of Civil Procedure regarding his federal case. (Indeed, if plaintiff really believed that he had been barred from filing anything further in regard to his federal case, he would not have filed the present motion).

Upon due consideration, plaintiff's motion and supplementary material are not accepted for filing in this court.

IT IS SO ORDERED.

Dated: April 16, 1992 s/BENJAMIN F. GIBSON, Chief Judge".

5/8/92 "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, FILED 5/7/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:

DATE RECEIVED: April 27, 1992

PLEADING TITLE/FILER: Filed by plaintiff - Emergency motion for change in venue and in the alternative, to alter the order denying a Rule 60(b)(5)(6) evidentiary hearing to defendants' 19901992 frauds upon the courts with brief.

REASON: A final judgment has been entered dismissing this action and the case is no longer pending in this or any other federal court.

If the offering party wishes to resubmit

a corrected pleading, a copy of this order must accompany the resubmitted pleading.

IT IS SO ORDERED.

DATED: 5/6/92. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

5/22/92 "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, FILED 5/21/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:

DATE RECEIVED: May 12, 1992

PLEADING TITLE/FILER: Supplement To Reply To Petition To Determine Distribution Has Been Made/Johnson

REASON: The cover letter refers to case number 1:90cv175. The pleading refers to file number 86-59607-SE of State of MI Probate Court, Muskegon County. Case number 1:90-cv-175 is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.

IT IS SO ORDERED.

DATED: 5/21/92. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

5/26/92 "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, FILED 5/22/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted

below:
DATE RECEIVED: May __. 1992
PLEADING TITLE/FILER: Filed by plaintiff - Emergency motion to strike
REASON: This case is closed. A final judgmet has been entered dismissing this action and the case is no longer pending in this court. The court will retain the original of this motion and return the copy.
IT IS SO ORDERED.
DATED: 5/22/92. s/BENJAMIN F. GIBSON, U.S.Chief District Judge"

6/3/92 "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION
DONALD EDGAR JOHNSON, FILED 6/2/92
Plaintiff Case No. 1:90cv175
V ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants
The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:
DATE RECEIVED: May 26, 1992
PLEADING TITLE/FILER: Plaintiff's emergency motion for declaratory judgmert
REASON: This case is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.
IT IS SO ORDERED.
DATED: 6/2/92. s/BENJAMIN F. GIBSON, Chief U.S. District Judge"

FILED 6/5/92 "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION
DONALD EDGAR JOHNSON, FILED 6/5/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants
The Court has examined the following proposed pleadings(s) and orders the Clerk to reject

the proposed pleadings(s) and to return it to the offering party for the reasons noted below:
DATE RECEIVED: June _ 1992
PLEADING TITLE/FILER: Plaintiff's supplement to emergency motion for declaratory judgment
REASON: This case is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.
IT IS SO ORDERED.
DATED: 6/5/92. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

FILED 6/5/92 "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION
DONALD EDGAR JOHNSON, FILED 6/5/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants
The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:
DATE RECEIVED: June _ 1992
PLEADING TITLE/FILER: Plaintiff's 2nd supplement to emergency motion for declaratory judgment
REASON: This case is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.
IT IS SO ORDERED.
DATED: 6/5/92. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

FILED 6/8/92 "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION
DONALD EDGAR JOHNSON, FILED 6/8/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants
The Court has examined the following proposed pleadings(s) and orders the Clerk to reject

the proposed pleadings(s) and to return it to the offering party for the reasons noted below:

DATE RECEIVED: June _ 1992

PLEADING TITLE/FILER: Plaintiff's motion for injunction

REASON: No brief was attached and this case is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.

IT IS SO ORDERED.

DATED: 6/8/92. s/BENJAMIN F. GIBSON, Chief U.S. District Judge"

6/29/92 ENTERED "UNITED STATES DISTRICT COURT FOR .THE WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

DONALD EDGAR JOHNSON, Plaintiff

v

RICHARD G. JOHNSON et al Defendants

FILED 6/!5/92

Case No. 1:90cv175

ORDER REJECTING PLEADING

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:

DATE RECEIVED: June _ 1992

PLEADING TITLE/FILER: Plaintiff's motion for injunction (second time) and no brief attached.

REASON: This case is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.

DATED: 6/15/92. s/BENJAMIN F. GIBSON, Chief U.S. District Judge"

7/8/92 "UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

DONALD EDGAR JOHNSON, Plaintiff

v

RICHARD G. JOHNSON et al Defendants

FILED 6/29/92

Case No. 1:90cv175

ORDER REJECTING PLEADING

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:

DATE RECEIVED: June _ 1992 or July _ 1992

PLEADING TITLE/FILER: Plaintiff's petition to determine that law firms are unqualified and decedent was joint venturer disguised as moneylender and reply to response to claimant Donald Edgar Johnson's motion for rehearing filed by plaintiff because this case is closed; A final judgment has been entered dismissing this action and the case is no longer pending in this court.

IT IS SO ORDERED.

DATED: 7/8/92. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

7/8/92: "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, FILED 7/6/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:

DATE RECEIVED: July _ 1992

PLEADING TITLE/FILER: Plaintiff's Claimant Heir Donald Edgar Johnson's Request for Admissions, Genuineness of Documents and Truth of Facts

REASON: This case is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.

IT IS SO ORDERED.

DATED: 7/6/92. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

7/9/92: "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, FILED 7/8/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:

DATE RECEIVED: July _ 1992
PLEADING TITLE/FILER: Plaintiff's Supplement to Claimant Heir Donald's Request for Admissions, Genuineness of Documents and Truth of Facts
REASON: This case is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.

IT IS SO ORDERED.
DATED: 7/8/92. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

7/9/92: "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, FILED 7/8/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:

DATE RECEIVED: July _ 1992
PLEADING TITLE/FILER: Reply To Answer to Claimant Heir Donald Edgar Johnson's Request for Admissiona, Genuineness of Documents and Truth of Facts
REASON: This case is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.

IT IS SO ORDERED.
DATED: 7/6/92. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

7/14/92: "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, FILED 7/13/92
Plaintiff Case No. 1:90cv175
v ORDER REJECTING PLEADING
RICHARD G. JOHNSON et al
Defendants

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:
DATE RECEIVED: July _ 1992
PLEADING TITLE/FILER: Claimant-Heir Donald Johnson's response to Culver Lague & McNally Motion for Summary Disposition REASON: This case is closed. A final judgment has been entered dismissing this action and the case is no longer pending in this court.
IT IS SO ORDERED.
DATED: 7/6/92. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

12/23/92 Initial Court of Appeals #92-1829 Decision Showing: (1) Wrong Caption, and (2) 1964-67 PERPETRATOR 6th Circuit Judge Albert J. Engel Perpetuated The 1964-97 Ongoing Confidence Game By Intervening As Decisionmaker:

No. 92-1829
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DONALD EDGAR JOHNSON and Class of
Pro Se Nonlawyer Alleged
Confidence Game Victims,
FILED DEC 23, 1992
Plaintiff-Appellant, Leonard Green, Clerk
V.
RICHARD GORDON JOHNSON, jointly and severally: CARL ALFRED JOHNSON, JR., jointly and severally; CARL A. JOHNSON, SR., the Estate of, jointly and severally; THE LAW FIRM PARTNERSHIPS OF

LANDMAN, LATIMER, CLINK AND ROBB, jointly and severally; CULVER, LAGUE AND MCNALLY, jointly and severally; O'TOOLE, STEVENS, JOHNSON, KNOLWTON AND ROLF, jointly and severally; STATE OF MICHIGAN, jointly and severally; O'TOOLE, JOHNSON, POTTER, ROLF, GRAFTON AND EKLUND, P.C., jointly and severally; ROBERT J. DANHOF, Michigan Court of Appeals Chief Judge

Defendants-Appellees.

BEFORE: KENNEDY AND BATCHELDER, Circuit Judges and ENGEL, Senior Judge.

"Plaintiff, Donald Edgar Johnson, a pro se Michigan citizen, moves for miscellaneous relief on appeal from three separate district court orders rejecting various pleadings filed subsequent to a final judgment entered December 19, 1990, dismissing plaintiff's civil action filed pursuant to 42 U.S.C. § 1985. Plaintiff also appeals an order from the Muskegon County Probate Court. Additionally, the defendants have filed motions to dismiss the appeal for lack of subject matter jurisdiction. The defendants also request costs and attorney fees. Plaintiff has filed a response. This case has been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

Plaintiff initiated his civil action against the estate of the father, his two brothers, several law firms, and a Michigan state court judge, claiming that the defendants conspired against him through various judicial processes in the state and federal courts since 1974. The district court determined that plaintiff's claims were barred by res judicata and dismissed plaintiff's complaint for failure to state a claim. This court affirmed the district court's judgment in an order filed Jujly 29, 1991 and denied plaintiff's petition for rehearing en banc in an order filed September 2, 1991. On January 21, 1992, the United States Supreme Court denied certiorari.

Thereafter on April 27, 1991, the district

court received a pleading entitled, "Emergency Motion For Change In Venue; And In The Alternative, To Alter The Order Denying A Rule 60(b)(6) Evidentiary Hearing Re Defendants' 1990-1992 Frauds Upon The Courts." On May 8, 1992, the district court entered an order rejecting the pleading for the reason that a final judgment had been entered dismissing plaintiff's action.

On May 12, 1992, the district court received a pleading entitled, "Supplement To Reply To Petition To Determining Distribution Has Been Made." The district court rejected this pleading in an order entered May 22, 1992, also for the reason that a final judgment had been entered dismissing plaintiff's case. Finally, on May 26, 1992, the district court received a pleading entitled, "Emergency Motion For Declaratory Judgment." On June 3, 1992, the district court entered an order rejecting this pleading for the same reason as stated in the print orders of May 8, 1992 and May 22, 1992.

We construe this appeal as an appeal from three separate district court orders denying plaintiff relief sought pursuant to Fed. R. Civ. P. 60(b). An abuse of discretion standard applies to a decision rendered under Rule 60(b). In re Sales Mortg. Co., 791 F.2d 456, 459 (6th cir. 1986); Smith v Secretary of Health and Human Services, 776 F.2d 1330, 1332 (6th Cir. 1985); Windsor v. United States Dep't of Justice, 740 F.2d 1330, 1332 (6th Cir. 1985); Windsor v. United States Dep't of Justice, 740 F.2d 6, 7 (6th Cir. 1984) (per curiam0; Reviewing courts will find an abuse of discretion in the denial of a Rule 60(b) motion only if there is a definite and firm conviction that the court committed a clear error of judgment. Davis v. Jellico Community Hospital, Inc., 912 F.2d 129, 133 (6th Cir. 1990). A Rule 60(b) motion cannot be used as a substitute for an appeal, and thus an appeal from an order denying Rule 60(b) relief does not bring up for review the underlying judgment. Browder v. Direct, Dep't of Corrections, 434 U.S.

257,263 n.7 (1978); Hopper v. Euclid Manor Nursing Home, Inc., 867 F.2d 291, 294 (6th Cir. 1989).

Upon review, we conclude that the district court did not abuse its discretion when it rejected plaintiff's post-judgment pleadings. In each of the submitted pleadings, plaintiff attempted to relitigate issues previously decided adversely to him. A final judgment has been entered dismissing plaintiff's action, that decision has been affirmed by this court and a petition for certiorari has been denied by the Supreme Court. Thus, no clear error of judgment on the part of the district court exists in this case.

Additionally, the order from the Muskegon County Probate Court is not appealable to this court. Thus, we do not review that appeal.

For the foregoing reasons, the defendants' motions to dismiss and request for costs and attorney fees are denied, plaintiff's motions for miscellaneous relief are denied, and the district court's orders of May 8, 1992, May 22, 1992, and June 3, 1992 are affirmed pursuant to Rule 9(b)(3), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT
s/LEONARD GREEN, Clerk"

10/19/93: "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON,
Plaintiff
v
RICHARD G. JOHNSON et al
Defendants

FILED 10/15/93
Case No. 1:90cv175
ORDER REJECTING PLEADING

The Court has examined the following proposed pleadings(s) and orders the Clerk to reject the proposed pleadings(s) and to return it to the offering party for the reasons noted below:

DATE RECEIVED: September _ 1993
PLEADING TITLE/FILER: Plaintiff's notification that a petition for writ of certiorari was filed in the Supreme Court on 10/4/93
REASON: This case is closed.

IT IS SO ORDERED.
DATED: 10/15/93. s/BENJAMIN F. GIBSON,
Chief U.S. District Judge"

12/15/93 "UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, FILED 12/10/93
Plaintiff, HON. BENJAMIN F. GIBSON
V. FILE NO 1:90cv175
RICHARD GORDON JOHNSON, et al.,
Defendants.

ORDER DENYING MOTION FOR RULE 60(b)(6) RELIEF FROM JUDGMENT

At a session of the Court held in and for said District and Division in the City of Grand Rapids, Michigan, this 10th day of December, 1993.

PRESENT: HON. BENJAMIN F. GIBSON, DISTRICT JUDGE

This matter having come before the Court pursuant to a Motion for Rule 60(b)(6) Relief from Judgment filed by plaintiff, and the Court having reviewed said motion and otherwise being fully advised in the premises;

IT IS HEREBY ORDERED that said motion (pleading #136) is DENIED.

IT IS SO ORDERED.

s/BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE"

1/5/94 In District Judge Gibson's So-Called "Closed" Case, He Mandated A Magistrate-One Judge Court Before Noticing Hearing To Review 1964-94 Constitutional Claims Shown In 4th Amended Complaint:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION FILED 1/4/94

DONALD EDGAR JOHNSON, File No. 1:90-CV-175
Plaintiff, Hon. Benjamin F. Gibson
v.
RICHARD GORDON JOHNSON, et al. MEMORANDUM OPINION and INJUNCTIVE ORDER
Defendants.

At a session of the Court held in and for

said District and Division, in the City of Grand Rapids, Michigan, this 3rd day of January, 1994.

PRESENT: HON. BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE

This matter is once again before the Court on plaintiff's recently filed pleadings (nos. 140,141, and 142) requesting the Court to issue summons forms and grant leave to file an amended complaint. An examination of the pleadings reveals that they were drafted by the pro se plaintiff without so much as a clue as to what the law is governing modification of judgments under Rules 59 and 60. The pleadings make no effort to justify relief under these rules since they completely ignore their content. The plaintiff has made a habit of such filings. The plaintiff's complaint--which was filed on February 27, 1990--sought to reopen litigation that was previously exhausted in the state courts. The complaint was dismissed by judgment of this Court of December 18, 1990. The dismissal was upheld by the Sixth Circuit Court of Appeals by its mandate of October 15, 1991. Despite this fact, the plaintiff has continued to file various requests regarding the closed case since October 15, 1991. Since that date, the Court has rejected by separate orders some 15 pleadings filed by the plaintiff seeking relief to which he was not entitled. Plaintiff's continual filing of these pleadgins has placed an administrative burden on this Court, as well as the clerk's office. As the Supreme Court has noted, the courts have a responsibility to see that judicial resources are properly allocated and conserved. In re McDonald, 489 U.S. 180,184 (1989). Rule 11 also requires courts to sanction the filing of meritless pleadings. Although the courts are understandably more indulgent with pro se litigants, this indulgence has its limits. As the Fifth Circuit has noted, "That [a plaintiff's] filings are pro se offers [plaintiff] no impenetrable shield [to sanctions], for one acting pro se has no license to harass others, clog the judicial machinery

with meritless litigation, and abuse already overloaded court dockets" Farguson v. MBank Houston, N.A., 808 F2d 358,359 (5th Cir. 1986).

When faced with similar situations, other federal courts have enjoined further filings. See Farguson, supra; Kaufhold v. Cauthen, 152 Bankr. 149 (Bankr. S.D. Tex. 1992). Such action is authorized both under Rule 11 and the general power of the courts to protect themselves from abusive filings. Id. In Farguson, the Fifth Circuit approved an order enjoining the plaintiff from filing further actions against the defendants based on matters set forth in the prior complaint. In Filipas v. Lemons, 835 F.2d 1145,1146 (6th Cir. 1987), the Sixth Circuit approved an even broader injunction prohibiting the filing of any lawsuit by the plaintiff without prior leave from the court. In making a determination as to the appropriate sanction, the Court is mindful that it should not unduly restrict plaintiff's access to court and should make its injunction as narrow and specific as possible. See Farguson, Supra.

Therefore, ITS IS HEREBY ORDERED tha plaintiff DONALD EDGAR JOHNSON's motions contained in pleadings no. 140, 141, and 142 are DENIED.

IT IS FURTHER HEREBY ORDERED that plaintiff DONALD EDGAR JOHNSON shall refrain from filing in this Court further complaints or pleadings relating to claims against the defendants made in this lawsuit (except for an appeal of this injunction, or any filing as to which the plaintiff first obtains leave from a United States Magistrate, which leave shall be granted if the accompanying request is not frivolous or made in bad faith).

IT IS FURTHER ORDERED that the clerk's office shall not accept from the plaintiff for filing further pleadings in this case (except for an appeal of this injunction, or in the event that plaintiff first obtains leave from a United States Magistrate). IT IS SO ORDERED."

s/BENJAMIN F. GIBSON, U.S DISTRICT JUDGE"

2/4/94 "UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
GRAND RAPIDS DIVISION

DONALD EDGAR JOHNSON FILED 2/3/94
v
RICHARD GORDON JOHNSON, et al.

ORDER

TO: COUNSEL OF RECORD.

You are advised that the following action is hereby taken by the Court in this matter:

DOCKET NUMBER OF MOTION: 140-142
DATE MOTION FILED: 12/14/93 - 12/20/93
PLAINTIFF'S MOTION (X)
TYPE OF MOTION: Add necessary parties in 5th Amended Complaint
ACTION TAKEN: DENIED (x).
IT IS SO ORDERED.

DATE: 2/3/94 s/HUGH W. BRENNEMAN, JR., U.S. MAGISTRATE JUDGE

2/25/94 **In Related Matter,** Michigan Michigan Supreme Court No. 97521 Denied Leave To Appeal Dismissal Of Don's Estate Claim And Closing Estate, **"Because We Are Not Persuaded That The Questions Presented Should Be Reviewed By This Court".**

6/9/94 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
GRAND RAPIDS DIVISION

DONALD EDGAR JOHNSON FILED 6/8/94
v
RICHARD GORDON JOHNSON, et al.

ORDER

TO: COUNSEL OF RECORD.

You are advised that the following action is hereby taken by the Court in this matter:

DOCKET NUMBER OF MOTION: 144
DATE MOTION FILED: 1/14/94
PLAINTIFF'S MOTION (X)
TYPE OF MOTION: for leave to file from U.S. Magistrate Judge to file plaintiff's motion for Rule 59(e) relief altering or amending 1/4/94 order &/or to certify for review
ACTION TAKEN: DENIED (x).

IT IS SO ORDERED.
DATE: 6/8/94 s/HUGH W. BRENNEMAN, JR.,
U.S. MAGISTRATE JUDGE

10/3/94 In Related Matter, Supreme Court No. 94-146 Denied Mandamus to Michigan Supreme Court No. 97521 To Stay State's 2/25-4/29/94 Dismissing Plaintiff's $500,000+ Claim Against Carl A. Johnson, Sr. $448,000+ Estate Pending Federal Proceedings.

11/8/94 District Judge Gibson Refused To Disqualify Himself Despite 10/11/94 Affidavit, Or Certify Constitutional Issue For 28 USC § 1292(b) Interlocutory Review At Court Of Appeals:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION
DONALD EDGAR JOHNSON, FILED NOV 4 1994
Plaintiff, File No. 1:90-CV-175
v
RICHARD GORDON JOHNSON, et al.,
Defendants.
At a session of the Court held in and for said District and Division, in the City of Grand Rapids, Michigan, this 4th day of November, 1994.
PRESENT: HON. BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE.

"This matter is before the Court on the motion of plaintiff Donald Edgar Johnson to reconsider the Court's previous orders denying him relief under Federal Rules of Civil Procedure 59 and 60, to reassign this closed case to another judge, and to reconsider the Court's injunction prohibiting plaintiff from filing frivolous pleadings.

Plaintiff's asserted basis for such motions is that the undersigned judge is biased against him such that the case should be reassigned pursuant to Title 28 United States Code Sections 144 and 455. Plaintiff's only basis for so asserting is that the Court has repeatedly ruled against him as to the many motions he has filed. The record, however, supports that

the Court has done so only because the motions were without merit and did not warrant relief. The record further supports the necessity of enjoining the plaintiff from filing further frivolous pleadings.

Therefore, the Court determines that there is no appropriate legal basis for reassignment of this closed case or for the other relief requested.

Accordingly, plaintiff's motion (pleading no. 205) is DENIED. IT IS SO ORDERED. s/BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE"

6/27/95 6th Cir. Ct. Of Appeals 94-2305 Affirmed District Judge's Denial Of FRCVP 60(b)(6) Relief:

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

FILED JUN 27 95 No. 94-2305

DONALD EDGAR JOHSON, Plaintiff-Appellant,

V.

O R D E R

RICHARD GORDON JOHNSON; CARL ALFRED JOHNSON, JR.; ESTATE OF CARL A. JOHNSON, SR.; LAW FIRM PARTNERSHIPS OF LANDMAN, LATIMER, CLINK & ROBB: CULVER, LAGUE & McNALLY: O'TOOLE, STEVENS, JOHNSON, KNOWLTON & ROLF; O'TOOLE, JOHNSON, POTTER, ROLF, GRAFTON & EKLUND, P.C.; STATE OF MICHIGAN; ROBERT J. DANHOF, Michigan 'Court Of Appeals Chief Judge, jointly and severally, Defendants-Appellees.

NOT RECOMMENDED FOR FULL-TEXT PUBL * * *

"Donald Edgar Johnson, a pro se Michigan resident appeals a district court order denying his motion to set aside the court's previous orders filed pursuant to Fed. R. Civ. P. 59 and 60. The case has been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

On December 19, 1990, the district court dismissed Johnson's civil rights complaint filed pursuant to 42 U.S.C. § 1985. Johnson's civil rights action arose from a dispute that Johnson had with his family in the mid-1960's. The dispute led to litigation and a trial in the state courts of Michigan. A judgment adverse to Johnson was ordered by the Michigan

trial court in December 1974.

Johnson appealed the district court's 1990 decision and this court affirmed the dismissal. Johnson v. Johnson, No. 91-1160, 1991 U.S. App. LEXIS 17922, at *2 (6th Cir. July 29, 1991, cert. denied, 502 U.S. 1059 (1992). In 1992, Johnson moved to alter the 1990 judgment pursuant to Fed.R. Civ. P. 60(b,). The district court denied the motion and this court affirmed. Johnson v. Johnson, No. 92-1829, 1992 U.S. App. LEXIS 34749, at *4-5 (6th Cir. Dec. 23, 1992).

Johnson then filed numerous documents with the district court. A magistrate judge ordered that the documents be struck from the record as frivolous. Johnson moved the district court to reconsider the magistrate judge's decision. The district court denied the motion. Johnson then filed a Rule 59 motion for reconsideration of this decision and a Rule 60(bi) motion for reconsideration of the December 19, 1990 decision. The district court denied both motions as meritless.

In his timely appeal, Johnson's brief raises a plethora of issues. He requests oral argument and has moved the court to void a 1994 state court decison.

The court reviews the denial of Rule 60(b) motion for an abuse of discretion. See Williams v Browman, 981 F2d 901, 903 (6th Cir. 1992) (per curiam). A Rule 60(b) motion may not be used as a substitute for an appeal, and thus, the underlying judgment is not reviewed. See Browder v. Director, Dept. of Correction, 434 U.S. 257,263 n.7 (1978). As for Johnson's Rule 59 motion, the court will consider the merits of the district court's order as this decision is subject to appellate review. Peabody Coal Co. v Local Union Nos. 1734, 1508 and 1534, UMW, 484 F2d 78,81 (6th Cir. 1973), cert. denied after subsequent appeal, 430 U.S. 940 (1977).

Upon review, we conclude that the district court did not abuse its discretion in denying Johnson's Rule 60(b) motion. As Johnson is attempting to have the district court reconsider

its December 19, 1990 order dismissing his civil rights complaint and that order has been affirmed on direct appeal and in a previous Rule 60(b) motion, the district court did not abuse its discretion to denying Johnson's second Rule 60(b) motion. As for Johnson's appeal of the denial of his Rule 59 motion, it is clear that the pleadings in question were in fact frivolous and the district court did not err in affirming the magistrate judge's decision.

Johnson contends that the district judge was biased. The legal standard to establish judicial bias requires the facts to ber such as would convince a reasonable person that bias exists. See United States v Story, 716 F2d 1088,1090 (6th Cir. 1983). Johnson has presented no evidence, nor do the facts indicate, that the district judge was biased. The argument is meritless.

Finally, a court possesses an inherent authority to sanction a party who has acted in bad faith, vexatiously, wantonly, or for oppressive reasons. Chambers v. NASCO Inc., 501 U.S. 32, 43-46 (1991). Johnson's current appeal represents his third attempt before this court to vacate the 1974 state court judgment. Should Johnson continue to file frivolous appeals involving the 1974 decision, the court may impose sanctions against him.

Accordingly, we deny the request for oral argument, deny the motion to void the state court dismissal, and affirm the district court's order. Rule 9(b)(3), Rules of the Sixth Circuit."

2/96 U.S. Supreme Court No. 95-934 DENIED Certiorari To 6th Circuit Court Of Appeals No. 94-2305.

6/13/96 Dist. Judge Gibson Denied Don's Motion To Alter Or Amend His 5/22/96 Order Affirming Magistrate Judge's 3/17/96 Order Finding That Don's Motion For Leave To File For Rehearing Was Frivolous:

UNITED STATES DISTRICT COURT
WEST MICHIGAN-SOUTHERN DISTRICT
FILED 6/13/96 No. 1:90-cv-175

DONALD EDGAR JOHNSON, Plaintiff,
V, MEMORANDUM OPINION & ORDER
RICHARD GORDON JOHNSON et al., Defendants.

At a session of the Court held in and for said District and Division, in the City of Grand Rapids, Michigan, this 13th day of June, 1996.

PRESENT: HON. BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE

"Plaintiff moves to reconsider this Court's order of May 22, 1996, affirming the magistrate judge's order of March 17, 1996, entered March 18, 1996, finding that plaintiff's motion for leave to file an emergency motion for rehearing was frivolous.

Plaintiff argues that this Court wrongly decided the motion, that Judge Gibson should have disqualified himself, and that 'defendant state agent Landman law firm's representative' along with other defendants should share the cost of plaintiff's '1991-1996 interlocutory appeals including a reasonable attorney fee.' Plaintiff has not adequately presented any persuasive basis for reconsideration of this Court's order.

Accordingly, IT IS HEREBY ORDERED that plaintiff's emergency motion (pleading no. 243) to alter or amend is DENIED. s/BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE."

5/1/97 6th Cir. Ct. Of Appeals 96-1826/1979 Denial Of Appeal Of District Judge Gibson's 6/13/97 Denials.

"U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
FILED 5/1/97 Nos. 96-1826/1979

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,
V. O R D E R
RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR.; THE ESTATE OF CARL A. JOHNSON, SR.; THE LAW FIRM PARTNERSHIPS OF LANDMAN LATIMER CLINK ROBB CULVER LAGUE & MCNALLY; O'TOOLE STEVENS JOHNSON KNOWLTON & ROLF; STATE OF MICHIGAN;

O'TOOLE JOHNSON POTTER ROLF GRAFTON & EKLUND, P.C.;ROBERT J. DANHOF, Michigan Court of Appeals Chief Judge, Jointly and Severally, Defendants-Appellees.

NOT RECOMMENDED FOR FULL-TEXT PUBL * * *

"Donald Edgar Johnson appeals district court orders: (1) denying his motion for leave to file a motion for rehearing; and (2) denying a motion for reconsideration of that order. These cases have been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App.

These appeals are plaintiff's fourth appearance before this court attempting to assert his claim filed pursuant to 42 U.S.C. § 1985 that defendants conspired to deprive him of his civil rights in state court proceedings. In 1991, this court affirmed the district court's judgment dismissing his complaint for failure to state a claim upon which relief can be granted. Johnson v. Johnson, No. 91-1160, 1991 WL 138458 (6th Cir. July 29, 1991), cert. denied, 502 U.S. 1059 (1992). In 1992, this court affirmed three orders of the district court denying plaintiff's motions for postjudgment relief. Johnsonv. Johnson, No. 92-1829, 1992 WL 392892 (6th Cir. Dec. 23, 1992). Most recently, this court affirmed another district court order denying plaintiff's additional motions for relief from judgment. Johnson v. Johnson, No. 94-2305, 1995 WL 385142 (6th Cir. June 27, 1995), cer. denied, 116 S. Ct. 918 (1996).

Moreover, the district court entered an order enjoining plaintiff from filing further pleadings relating to the claims asserted herein without first obtaining leave from a magistrate judge. Thereafter, plaintiff filed a motion for leave to file an "emergency petition for rehearing," which the magistrate judge denied. Plaintiff appealed the denial to the district court, and the district court affirmed the magistrate judge's order. Next, plaintiff

filed an 'emergency motion to alter or amend' the district court's judgment affirming the magistrate judge's order, which the district court denied. Plaintiff filed a timely notice of appeal taken from the district court's judgment and the order denying his subsequent motion to alter or amend, which was docketed in this court as Case No. 96-1826. Four days after plaintiff filed his timely notice of appeal, plaintiff filed an 'emergency' motion pursuant to Fed. R. Civ. P. 60(b)(6) for relief from the district court's judgment affirming the magistrate judge's order. The district court denied plaintiff's motion, and plaintiff filed an amended notice of appeal within 30 days of the district court's order, docketed in this court as Case No. 96-1979.

Generally, this court reviews the denial of a Fed. R. Civ. P. 60(b) motion only for an abuse of discretion. Williams v. Browman, 981 F2d 901,903 (6th Cir. 1992) (per curiam); McDowell v.Dynamics Corp., 931 F2d 380,383 (6th Cir. 1991). In pertinent part, Rule 60(b)(6) provides for relief from a judgment for any reason justifying relief from operation of the judgment not specified in other section of Rule 60, but the relief available under this residual provision should be afforded only in unusual circumstances where principles of equity mandate relief. Olle v. Henary & Wright Corp., 910 F2d 357,365(6th Cir. 1990). The district court's discretion to deny relief under this provision is particularly broad. McDowell, 931 F2d at 383. The district court's order affirming the magistrate judge's order refusing plaintiff leave to file his motion is tantamount to a denial of plaintiff's motion.

The district court did not abuse its discretion in affirming the magistrate judge's order on appeal in Case No. 96-1826. Plaintiff's latest efforts to reopen the case are not based on new grounds and were properly characterized by the district court as frivolous. With respect to the district court order denying plaintiff's Rule 60(b) motion on appeal in Case No. 95-1979, the district

court had no jurisdiction to rule on plaintiff's Fed. R. Civ. P. 60(b) motion after the timely notice of appeal was filed. See Pittock v. Ottis Elevator Co., 8 F3d 325,327 (6th Cir. 1993).

The order denying relief therefore will be affirmed on this basis rather than on the merits. Further, it is noted that there is no factual basis for plaintiff's contention on appeal that the district court should have recused itself from this case. See Liteky v. United States, 510 U.S. 540,550 (1994).

Finally, plaintiff is again warned that further appeals involving this subject matter may lead to sanctions including, but no limited to, an order enjoining such appeals in the future.

For the foregoing reason, the judgments of the district court are affirmed. Rule 9(b)(3), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT
s/Leonard Green/??, Clerk"

8/1/97 Magistrate's 28 USC § 636 Report & Recommendation To Refuse To Schedule A "First Time" Hearing To Review Constitutional Claims Before Scheduling A Contempt Hearing For Filing 28 USC § 2284 Application For "No-Magistrate-Three-Judge Court" Without Magistrate's Leave. NOTE THAT HE FRAUD-UPON-THE-COURTS SUBSTITUTED "28 USC § 2844" FOR 28 USC §§ 2283,2284 IN FIRST PARAGRAPH:

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON — FILED AUG 1 1997
Plaintiff,

v. — Case No. 1:90-CV-175

RICHARD GORDON JOHNSON, et al,
Defendants. — Hon. Benjamin F. Gibson

REPORT AND RECOMMENDATION

This matter is before the court on plaintiff's attempted filing of (1) "supplement to plaintiffs' motion ...", (2) Plaintiff's motion (a) to correct five 7/157/16/97 orders and (b) for judgment on his 6/26-7/10/97

emergency pleadings, (3) Plaintiff's motions (a) to correct record to show 6/27-7/11/97 filings of Rule 60(b)(6) and 28 USC §§ 144,2844 pleadings, and (b) to vacate on ground of frauds upon courts the magistrate's 7//15-7/16/97 orders rejecting those pleadings, and (4) a Rule 59(e) motion to alter amend, or vacate magistrate judge's 7/22/97 order. Neither the motions mor the supplement have been accepted for filing because pursuant to the court's December 19, 1990 and January 4, 1994 orders (docket nos. 103 and 143 respectiely), plaintiff is required to obtain leave of court before he may file any additional pleadings in this action.

The court has reminded plaintiff in dozens of prior orders that final judgment has been entered in this case and it is closed. Plaintiff has filed at least four appeals to the Sixth Circuit regarding this action and, in a June 29, 1995 order, even that court threatened plaintiff with sanctions should he continue to file frivolous appeals.

The instant supplement and motions follow a stream of attempted filings by plaintiff. The pleadings were rejected by the court because plaintiff had failed to obtain leave of court before filing them. Order Rejecting Pleadings (dock nos. 263-267). Thereafter, plaintiff filed a motion for leave to file the pleadings which had been rejected (docket no.268). The court denied leave because the pleadings were frivolous in that they raised issues which have been resolved in the judgment previously entered in this action or other final orders (docket no. 269).

In the supplement and the motions plaintiff asks the Court to accept all of his filings and to vacate the judgment and order which restrict his filings. It is apparent, however, that plaintiff ultimately seeks to vacate the judgment redered by the court over six years ago.

At this stage, simply rejecting the supplement or motions or denying leave to file them would appear to be futile gestures.

Plaintiff has simply ignored such actions in the past and there is no reason to believe he would not do so again. Rather than simply starting the cycle again, I respectfully recommend that the district court enter an order rejecting the supplement and attachments and the motions as violative of the court's December 19, 1990 and January 4, 1994 orders and that the court schedule an evidentiary hearing for the purpose of determining whether plaintiff should be held in contempt of court for his disregard of the court's orders.

Moreover, pending resolution of this matter, the clerk is directed to accept for filing any objections to this Report and Recommendation.

Entered 7/31/97

s/Hugh W. Brenneman, Jr.
U.S. Magistrate Judge

ANY OBJECTIONS to this Report and Recommendation must be served and filed with the Clerk of the Court within ten (10) days after service of the report. All objections and responses to objections are governed by W.D.Mich. L.R. 13(b). Failure to serve and file written objections within the specified time waives the right to appeal the District Court's order. Thomas v. Arn, 474 U.S. 140 (1985), United States v. Walter, 638 F2d 947 (6th Cir. 1981)."

8/13/97 Gibson reviewed objections de novo, adopted Magistrate's Report & Recommendation, and scheduled contempt hearing:

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, FILED AUG 13 1997
Plaintiff, File No. 1:90-CV-175
Hon. BENJAMIN F. GIBSON

RICHARD GORDON JOHNSON, et al.,
Defendants. MEMORANDUM OPINION and ORDER

At a session of the Court held in and for said District and Division, in the City of Grand Rapids, Michigan, this 12th day of August, 1997.

PRESENT: THE HONORABLE BENJAMIN F. GIBSON

SENIOR UNITED STATES DISTRICT JUDGE

This matter is before the Court on plaintiff Donald Edgar Johnson's objections to the Magistrate Judge's Report and Recommendation dated July 31, 1997. The Court reviews de novo portions of reports and recommendations to which specific objection is made. See Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1)(C).

On December 18, 1990, this Court entered Judgment against plaintiff, thereby terminating this action. Pursuant to the Judgment and this Court's Order entered on January 4, 1994, (pleading nos. 103 and 143, plaintiff must obtain leave of court before he may file any additional pleadings in this case. Plaintiff repeatedly has attempted to file motions and other documents attacking the Judgment. Leave to file has been denied because the proposed submissions are frivolous, since they seek to raise issues already resolved.

The Magistrate Judge recommends that the Court enter an order rejecting plaintiff's proposed supplement, attachments, and motions listed in the Report and Recommendation and that the Court schedule an evidentiary hearing to determine whether plaintiff should be held in contempt of Court for his disregard of the Court's Orders. Plaintiff has filed a lengthy objection in the form of of an emergency motion and supplements thereto, charging that this Court is biased against him and attempting to reargue the underlying case. The Court is neither biased against plaintiff nor has it denied him due process. The Court agrees with the Magistrate Judge's recommendation.

NOW THEREFORE, IT IS HEREBY ORDERED that the Report and Recommendation of the Magistrate Judge dated July 31, 1997 (pleading No. 270) is ADOPTED as the Opinion of this Court.

IT IS FURTHER ORDERED that the supplement, attachments, and motions referenced in the Report and Recommendation are REJECTED.

IT IS FURTHER ORDERED that plaintiff's emergency motion to alter, amend, or vacate the 7/31/97 Report and Recommendation and, in the alternative, to vacate the 12/19/90

Judgment and 1/5/94 Order (pleading No. 271) is DENIED and that all of the attachments to the motion are REJECTED.

IT IS FURTHER ORDERED that a hearing will be held on Monday, October 10, 1997 at 10:00 A.M.. in courtroom 601, 110 Michigan N.W., Grand Rapids, Michigan, and that plaintiff must appear at the hearing to show cause why he should not be held in contempt of this Court.

IT IS SO ORDERED.

s/BENJAMIN F. GIBSON, SENIOR U.S.DISTRICT JUDGE"

9/11/97 The Magistrate Judge DENIED Plaintiff's (1) 9/4/97 Motion For Full 1990-97 Record To Be Available At Hearings, And (2) 9/9/97 Motion For Prompt Ruling On Substantiality Of Three Constitutional Claims Before Any Hearing:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION FILED 9/11/97

DONALD EDGAR JOHNSON, Case No. 1:90-CV-175
Plaintiff, Hon. Benjamin F. Gibson
V.
RICHARD GORDON JOHNSON, et al,
Defendants.

ORDER

This matter is before the court on plaintiff's emergency motion for leave from magistrate judge for court's prompt ruling on **substantiality of plaintiff's three constitutional claims** before any hearing (docket no. 278). Plaintiff is subject to restrictions with regard to his filing of pleadings or other documents in this court and the motion should not have been accepted for filing. Nonetheless, as the motion has been accepted for filing, the court will consider on its merits. After due consideration, plaintiff's motion is DENIED.

This matter is also before the court on plaintiff's emergency motion for full 1990-1997 record to be available for all future hearings (docket no. 277). After due consideration, plaintiff's motion is DENIED.

Entered 9/10/97 s/Hugh W. Brenneman Jr.,
U.S. Magistrate Judge."

9/22/97 The Magistrate Judge: DENIED Plaintiff's 9/15-9/16//97 Motions (1) To Alter Or Amend 9/11/97 Order, (2) To Change 10/6/97 Hearing From Contempt To Invoking Procedure For 3-judge Court; And In The Alternative, To Certify Questions For Direct Appeal To The U.S. Supreme Court, And (3) For Transmitting Evidence To District Court:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION

FILED SEP 22 1997

DONALD EDGAR JOHNSON,
Plaintiff,

Case No. 1:90-CV-175
Hon. Benjamin F. Gibson

V.

ORDER

RICHARD GORDON JOHNSON, et al,
Defendants.

This matter is before the court on plaintiff's emergency motion for magistrate judge by 9/17/97 to alter or amend his 9/11/97-filed order and the court to change 10/6/97 hearing from contempt to invoking procedure for 3-judge court, and in the alternative, to certify questions for direct appeal to the U.S. Supreme Court (docket no. 281), Supplement to emergency plaintiff's motion for leave from magistrate judge for court's prompt ruling on substantiality of plaintiff's three constitutional claims before any hearing (docket no. 282), Motion for leave for clerk to issue two requests for evidence (docket no. 283), and supplement to emergency plaintiff's motion for magistrate judge by 9/17/97 to alter or amend his 9/11/97-filed order and the court to change 10/6/97 hearing from contempt to invoking procedure for 3-judge court; and in the alternative, to certify questions for direct appeal to the U.S. Supreme Court (docket no. 284). Plaintiff is subject to restrictions with regard to his filing of pleadings or other documents in this court and the motions and supplements should not have been accepted for filing. Nonetheless, as the motions and supplements have been accepted for filing, the court will consider them on their merits.

After due consideration, the relief requested in plaintiff's motions and supplements is DENIED.

IT IS SO ORDERED.

Dated: 9/22/97.

s/Hugh W. Brenneman Jr.,
U.S. Magistrate Judge.

9/30/97 The District Judge Stayed Scheduled 10/6/97 Contempt Hearing Pending Appeal:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION

DONALD EDGAR JOHNSON,
Plaintiff,
V.
RICHARD GORDON JOHNSON, et al.,
Defendants.

FILED 9/30/97
File No. 1:90-CV-175
Hon. BENJAMIN F. GIBSON
ORDER ADJOURNING HEARING

At a session of the Court held in and for said District and Division, in the City of Grand Rapids, Michigan, this 29th day of September, 1997.

PRESENT: THE HONORABLE BENJAMIN F. GIBSON
SENIOR UNITED STATES DISTRICT JUDGE

"In this matter. it appearing to the Court that plaintiff's appeal is pending before the Sixth Circuit, NOW, THEREFORE,

IT IS HEREBY ORDERED that the show cause hearing scheduled for Monday, October 6, 1997, at 10:00 a.m. is ADJOURNED WITHOUT DATE, pending resolution of the appeal before the Sixth Circuit.

IT IS SO ORDERED.

s/BENJAMIN F. GIBSON
SENIOR U.S. DISTRICT JUDGE"

2/10/98 Court of Appeals -- Including Judge NORRIS Who Adjudicated The FRAUD UPON COURTS Appeal No. 91-1160 -- 9/10/97 GRANTED Plaintiff's 28 USC § 636(c)(4)(5) Petition For Leave To Appeal District Judge's Denial of FRCVP 60(b)(6); 28 USC §§ 144, 2283, 2284 Relief; 10/10/97 Labeled Don's Amendment To His Appeal As A Separate Case; Consolidated The Cases And DISMISSED Don's Appeal Because "Plaintiff Has Not Been Held In Contempt NOR Have Sanctions Been Imposed"; Then Fabricated

An Untrue Opinion:

Nos. 97-1944, 97-1955 & 97-2062

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

DONALD EDGAR JOHNSON, Plaintiff-Appellant, v. RICHARD GORDON JOHNSON, et al, Defendants-Appellees.

FILED FEB 10 1998

LEONARD GREEN, Clerk

O R D E R

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

* * * Before: MARTIN, Chief Judge, NORRIS and CLAY, Circuit Judges.

"These cases are before the court upon initial consideration of appellate jurisdiction.

A review of the documents before the court indicates that on August 13, 1997 the district court scheduled a hearing to determine if the plaintiff should be held in contempt. Plaintiff's appeal of August 25, 1997 was docketed as appeal No. 97-1944. A second appeal from the same order was docketed as appeal No. 97-1955. The magistrate judge by order of September 22 denied a motion to alter or amend the September 11 order denying a full record be available at future hearings or to certify the case to the United States Supreme Court. On September 30, the district judge adjourned the contempt hearing pending resolution of the appeal. Plaintiff's third notice of appeal from the orders of August 13, September 11, September 22 and September 30 was docketed as appeal No. 97-2062.

This court lacks jurisdiction in these appeals. Plaintiff has not been held in contempt nor have sanctions been imposed. Accordingly, the various orders regarding the possible contempt determination are not appealable See In re Shalala, 996 F 2d 964 (8th Cir 1993), Shimer v. Fugazy (In re Fugazy Express, Inc.), 982 F 2d 769,775 (2d Cir. 1992). Also, the orders entered by the magistrate judge are not appealable because he was not given plenary jurisdiction pursuant to 28 U.S.C. § 636(c)(1), See McGraw v. Connelly (In re Bell & Beckwith), 838 F 2d 844, 848 n 5 (6th Cir. 1988). Ambros v. Welch, 729 F 2d 1084,1085 (6th Cir. 1984)(per curiam).

It is ordered that the appeals are dismissed. ENTERED BY ORDER OF THE COURT. s/Leonard Green, Clerk"

5/8/98 **Mandate And Motion To Stay DENIED:**
"U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
Donald C. Weston Sr. Filed: May 8, 1998
Western District of Michigan at Grandrapids
110 Michigan Avenue, N.W.
Suite 452 Federal Building
Grand Rapids, MI 49503
RE: 97-1944: 97-1955: 97-2062
Donald Edgar Johnson vs. Johnson, et al
District Court No. 90-00175
The mandate issued in the above-styled case.
Please be advised that the certified record will be sent under separate cover.
Sue Burlage, Case Manager
cc: Donald Edgar Johnson
Ms. Margaret A. Nelson"

====

"Case Nos. 97-1944: 97-1955: 97-2062
U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
DONALD EDGAR JOHNSON,
Plaintiff-Appellant,
V. FILED May 8 1998
RICHARD GORDON JOHNSON, et al,
Defendants-Appellees.
BEFORE: MARTIN, Chief Judge; NORRIS and CLAY, Circuit Judges
Upon consideration of the appellant's 'tendered' motion for stay of mandate which was received one day late; it is ORDERED that the motion shall be accepted for filing.
Furthermore, upon consideration of the motion, it is ORDERED that the appellant's motion for stay of mandate pending outcome of review by the U.S. Supreme Court is DENIED as the appellant has failed to demonstrate good cause. ENTERED BY ORDER OF THE COURT. s/Leonard Green, Clerk".

10/5/98: Supreme Court Denied Certiorari:

"SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543
October 5, 1998

Donald Edgar Johnson
1657 S. Getty St./Motorhome
PO Box 5407
Muskegon, MI 49445

Re; Donald Edgar Johnson v. Richard Gordon Johnson, et al No. 97-2043

Dear Mr. Johnson: The Court today entered the following order in the above entitled case: The petition for a writ of certiorari is denied.

Sincerely, s/William K. Suter, Clerk"

10/8/98 District Court Reassigned Case No. 1:90cv175 from Judge Gibson To Judge Hillman:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
Office of The Clerk
452 Federal Building
110 Michigan Ave., NW
Grand Rapids, MI 49503

Johnson, Plaintiff Case No. 1:90cv175
v
Johnson, Defendant.

Dear Counsel: Pursuant to Administrative Order No. 98-098 of this court, the above-captioned case has been reassigned to Honorable Douglas W. Hillman, U.S. District Judge, who is located in Grand Rapids, Michigan. all future filings should relect his name.

Existing deadlines and scheduled daters will be maintained as far as practicable, but some may not remain the same. Te judge's office will notify all counsel/parties when and if any changes occur. Please direct any question to his secretary, Cathy Kennedy at 616-456-2523.

RONALD C. WESTON, SR., Clerk
Dated: October 8,1998 By: s/D.Calen,Deputy Clerk

10/8/98 "UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF MICHIGAN
IN THE MATTER OF REASSINGNMENT OF POST-JUDGMENT MATTER IN CASE NUMBER 1:90cv175
DONALD E. JOHNSON, Plaintiff,
v
RICHARD G. JOHNSON, et al, Defendants
WHEREAS, plaintiff Donald E. Johnson has filed an emergency motion for leave to schedule a hearing, and
WHEREAS, Senior Judge Gibson is unavailable;

IT IS HEREBY ORDERED that this case be reassigned pursuant to the approved procedure for post-judgment matters.
Dated: 10/7/98 s/RICHARD ALAN ENSLEN,
Chief Judge.
NOTICE TO THE PARTIES FROM THE CLERK OF THE COURT: THE POST-JUDGMENT MATTER HAS BEEN REASSIGNED TO Judge Douglas W. Hillman. Dated: 10/8/98."

10/14/98 "UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION
DONALD EDGAR JOHNSON, FILED OCT 13 1998
Plaintiff, Case No. 1:90cv175
vs Hon. Douglas W. Hillman
RICHARD GORDON JOHNSON, et al.,
Defendants.
ORDER DENYING MOTION FOR LEAVE TO FILE AND ENJOINING PLAINTIFF FROM FURTHER FILINGS IN THIS ACTION
This matter is before the court on plaintiff's attempted filing of "PLAINTIFFS' EMERGENCY MOTION FOR MAGISTRATE JUDGE'S LEAVE FOR COURT TO SCHEDULE A PROMPT HEARING FOR DETERMINING (1) THAT DEFENDANTS AND THE COURT JUDGE HAVE ISSUED FALSE STATEMENT CONSTITUTING SIGNIFICANT FRAUDS UPON THE COURTS- OBSTRUCTION OF JUSTICE; (2) THAT PLAINTIFF' CONSTITUTIONAL CLAIMS ARE NOT FRIVOLOUS OR SUBJECT TO BEING LEFT TO THIS MAGISTRATE-ONE JUDGE COURT THAT HAS NOT AFFORDED AN ADEQUATE FORUM FOR VINDICATION OF 1970-98 DENIALS OF FEDERAL CONSTITUTIONAL RIGHTS; AND (3) THAT NO CONTEMPT

PROCEEDING SHOULD PRECEDE THIS HEARING," and a "Supplement" to that motion received by the court on Octyober 13, 1998. The motion and the supplement have not been acceptd for filing because, pursuant to the court's December 19, 1990 and January 4, 1994 orders (docket nos. 103 and 143 respectively), plaintiff is required to obtain leave of court before he may file any additional pleadings in this action. Included with the motion are hundreds of pages of other documents which the court has previously refused to accept for filing.

If the pleadings were accepted for filing, they would be the 202nd and 203rd docket entries after final judgment was entered in this action on December 18, 1990. The court has reminded plaintiff in dozens of prior orders that final judgment has been entered in this case and it is closed. Plaintiff has filed at least six appeals to the Sixth Circuit regarding this action and, in a June 29, 1995 order, even that court threatened plaintiff with sanctions should he continue to file frivolous appeals. Plaintiff has filed at least eight petitions for writs of certiorari and at least two petition for writs of mandamus in the United States Supreme Court relating to the matters at issue in this lawsuit. Plaintiff's persistence in the federal courts is matched by his persistence in the state courts. He has filed numerous appeals in the Michigan Court of Appeals and has sought leave to appeal multiple times in the Michigan Supreme Court.

Plaintiff's allegations have their genesis in a decision of the Muskegon County Circuit Court in 1974. For nearly 25 years, plaintiff has attempted to avoid the res judicata and collateral estoppel effects of that decision in every court available to him. Plaintiff has enjoyed ample opportunity to raise every possible collateral attack on the state court judgment. Every attack has failed and all lower court decisions which note the failure of plaintiff's attacks have been upheld or review refused at every possible level of the state and federal courts. Plaintiff's continued

attempts to relitigate matters already decided by the state courts for more than two decades and by the federal courts for nearly a decade fly in the face of the principle of finality in judgments.

Although orders previously entered protect the defendants fromt he burden of plaintiff's continued frivolous filings, they do not protect this court. Despite the orders previously entered by the court barring submissions attacking the state court's decision, plaintiff continues to file motions directed solely in that topic. "Each time plaintiff files a motion he submits hundred of pages of documents. The administrative burden of handling and reviewing the hundreds of pages plaintiff submits each time he files a motion is simply wasted effort.

The Sixth Circuit has concluded that a district court has the power, under the All Writs Act, to enjoin a party from filing suits attempting to reopen or relitigate closed cases. Spencer v Slone, No. 85-5792, 1986 WL 16350 at**3(6th Cir. January 10, 1986); see also Sassower v. Thompson, Hine & Flory, No. 92-3553, 1993 WL 57466 at**2(6th Cir. February 18, 1985), Ortmon v. Thomas, 99 F.3d 807 (6th Cir. 1996). That power "extends to enjoining further filings in support of frivolous or vexatious claims." Spencer, at **3. This court has already entered such an order (docket no. 103); however, the court has also given plaintiff the benefit of the doubt by affording him an opportunity to obtain the approval of a magistrate judge in the event that the proposed filing does not involve issues already decided by the court (docket no. 143). Plaintiff has repeatedly abused that privilege.

For the reasons set forth above, the injunction previously entered by the court and upheld by the Sixth Circuit is modified as follows: Plaintiff is permanently enjoined from filing any further pleadings in this action (other than an appeal of this order) and plaintiff is enjoined from filing in this court any additional actions arising from the same

transaction and occurrences that were the subject matter of this litigation. Plaintiff, of course, is not barred from fililng litigation unrelated to the claims he raised in this action.

Leave to file the motion referenced above is DENIED as frivolous The Clerk of the Court shall return to plaintiff his motion and all documents submitted therewith, as well as the proposed supplement to the motion filed on October 13, 1995.

IT IS SO ORDERED.

Dated: OCT 13 1996 sDouglas W. Hillman
Senior District Judge"

10/26/98 "UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON, et al,
Plaintiffs,
-vs-
RICHARD GORDON JOHNSON, et al,
Defendants.

FILED 98 OCT 26
Case No. 1:90CV175
Hon. Douglas W. Hillman

ORDER

On October 13, 1998, following a protracted and abusive post-judgment history that has included over 200 postjudgment docket entries and hundreds of additional pages of rejected documents, this court issued an order permanently enjoining plaintiff from filing any further pleadings in this action, other than a notice of appeal of the October 13, 1998 order. On October 15, 1998, apparently before receiving the October 13, 1998 order, plaintiff submitted for filing a second supplement of his emergency motion to file that was rejected by the court in the October 13, 1998 order. That pleading subsequently was rejected by the magistrate judge on October 20, 1998, with reference to this court's October 13 order (docket #308).

In the interim, on October 16, 1998, in direct contravention of the court's October 13 order (which plaintiff attached to his motion), plaintiff filed an Emergency Motion to Stay Proceedings and Certify Questions for

Interlocutory Appeal (docket #307), in which plaintiff again attempts to raise substantive attacks on the finality of the December 19, 1990 judgment entered in this case. Thereafter, on October 22, 1998, plaintiff filed a brief in support of his October 16 motion (docket #309), in which he requests both certification of substantive question and alternative relief in the form of reconsideration of the court's October 13, 1998 order. Yet again, on October 23, 1998, plaintiff filed a supplement to his motion to stay proceedings and certify question (docket #310).

Inasmuch as plaintiff's motion, brief in support and supplement do not constitute an appeal of the October 13, 1998 order, those pleadings are explicitly barred by the October 13, 1998 order. Accordingly, IT IS ORDERED that plaintiff's Emergency Motion to Stay Proceedings and Certify Questions for Interlocutory Appeal (docket #307), together with his brief in support (docket #309) and supplement (docket #310) are dismissed as frivolous.

IT IS FURTHER ORDERED that plaintiff shall appear before this court on Monday November 16, 1998, at 10:00 a.m., in Courtroom 699, Federal Building, Grand Rapids, Michigan, to show cause why he should not be held in contempt of court for the filing of his Emergency Motion to Stay Proceedings and Certify Questions for Interlocutory Appeal and subsequent supporting documents in express violation of this court's October 13, 1998 order.

IT IS FURTHER ORDERED that the Clerk of Court shall reject without filing and wihout review by a magistrate judge any pleadings submitted by plaintiff for filing in the present action. The only exception to this order shall be a Notice of Appeal of this court's October 13, 1998 order (docket #306).

s/Douglas W. Hillman,
Senior District Judge

Dated: OCT 26 1998."

11/9/98 "No. 98-2190

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

In re: DONALD EDGAR JOHNSON, FILED
NOV 9 1998
Petitioner. LEONARD GREEN, Clerk

O R D E R

Before: JONES, RYAN, and BATCHELDER, Circuit Judges

The petitioner is a pro se litigant who has doggedly pursued a civil rights action in the district court for nearly a decade. He now seeks from this court a writ of mandamus which would (1) immediately stay all "state amd federa; court proceedings" relating to his action, (2) require the production of evidence presented by the petitioner in a state court action in 1974, and (3) order the convening of a three-judge district court under 28 U.S.C. § 2284 or order the district court to hold a hearing to determine if such a panel should be convened.

The petitioner's litigational experience dates from at least the early 1970's when he was involved in state proceedings involving his father's estate.

In 1990, he filed a federal civil rights action alleging a conspiracy among the estate, his siblings, various law firms and a state court judge to deprive him of certain constitutional rights. The district court dismissed the action on grounds of res judicata. On direct appeal, this court affirmed.. Johnaon v. Johnson, No. 91-1160, 1991 WL 138458 (6th Cir. July 29, 1991) (unpublished order), cert. denied, 502 U.S. 1059 (1992). Subsequently, the petitioner has sought relief from that judgment through a series of post-judgment motions. The district court has denied each motion and this court has affirmed such denial. See Johnson v. Johnson, No. 92-1829, 1992 WL 392892 (6th Cir. Dec 23, 1992) (unpublished order), Johnson v. Johnson, No. 94-2305, 1995 WL 385142 (6th Cir. June 27, 1995) (unpublished order), cert. denied, 516 U.S. 1115(1996), Johnson v. Johnson, Nos. 96-1826/1979, 1997

WL 225503 (6th Cir. May 1, 1997)(unpublished order). The latter two orders both included language informing the petitioner that continued frivolous appeals involving the 1970's state litigation could result in sanctions against him.[1]

Meanwhile, the filings continued in the district court. On October 13, 1998, that court filed an order in which it addressed the "protracted and abusive post-judgment history" of the petitioner's civil rights action[2] and permanently enjoined him from filing any further pleadings in that action other than a notice of appeal from such injunction. Despite that order, the petitioner submitted additional pleadings to the district court a few days later. The district court denied those pleadings as frivolous and ordered the petitioner to appear before the district court on November 16, 1998, to show cause why he should not be held in contempt for violating the October 13, 1998, injunction. The present mandamus petition is in apparent response to the latter order. Although the petitioner attached a copy of that order to his mandamus petition, the body of the petition addresses issues pertaining to the alleged merits of this civil rights action.

The traditional use of a mandamus petition is "to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so." Roche v. Evaporated Milk Ass'n, 319 U.S. 21,26 (1943). A petitioner seeking the writ must demonstrate either a clear abuse of discretion on the part of the lower court or conduct amounting to usurpation of judicial power. Mallard v. United States District Court, 490 U.S. 296, 309 (1989). The petitioner's assertions do not rise to this level and do not warrant mandamus intervention.

To the extent the petitioner seeks the convening of a three-judge district court panel, he has not attempted to demonstrate the grounds for such a panel under the criteria set forth

in 28 U.S.C. § 2284. See Tillett v. Lujan, 931 F.2d 636,642 (10th Cir. 1991). Likewise, he has shown no cognent reasons for this court to stay the current proceedings in the district court or to order the production of records pertaining to a 1974 state trial. Finally, we note that although the district court's order of October 13, 1998 permits the petitioner to file a notice of appeal from the injunction contained therein, he has not filed such an appeal. A mandamus petition is not an alternative means for such review. See City of Cleveland v. Krupansky, 619 F.2d 572,575(6th Cir.)(per curiam), cert. denied 449 U.S. 834 (1980) (mandamus cannot be used as a substitute for an appeal).

It therefore is ORDERED that the petition for a writ of mandamus is dismissed as frivolous. This order is without prejudice to the petitioner's filing a timely notice of appeal from the district court's injunction of October 13, 1998, or from any future order which finds him in contempt and imposes a penalty for such contempt.

ENTERED BY ORDER OF THE COURT
s/ Leonard Green/??, Clerk.

[1]Those warnings have not had the desired effect. The petitioner recently filed three additional appeals which were dismissed by this court for lack of jurisdiction. Johnson v. Johnson, Nos. 97-1944/1955/2062(6thCir.Feb.10,1998)(unpublished order), cert. denied, --U.S.--(Oct 5, 1998).

[2]The district court noted that the history of the petitioner's civil rights action "included over 200 post-judment docket entries and hundreds of additional pages of rejected documents..."

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5/18/99 Pet'n for Mandamus denied in Supreme Court # 98-1443. See Booklet.

6/7/99 "UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION
Filed 6/7/99

Donald Edgar Johnson, Plaintiff
v Case No. 1:90cv175
Richard Gordon Johnson, et al, Defendant
Hon Douglas W.Hillman

ORDER REJECTING PLEADING

The Court ha examined the following proposed pleadings received June , 1999, and order the Clerk to reject the Motion for order to seal document, notice of hearing, cert. of service and to return it to plaintiff for the reasons noted below:

Pursuant to order of civil contempt dated 11/17/98 (attached).

It is so ordered.

Dated: 6/7/99"

s/Hugh W.Brenneman, Jr.. U.S. Magistrate Judge

6/28/99 "UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION
Filed 6/7/99Donald Edgar Johnson, Plaintiff
v Case No. 1:90cv175
Richard Gordon Johnson, et al, Defendant
Hon Douglas W.Hillman

ORDER REJECTING PLEADING

Plaintiff has attempted to file an 'Appeal to Chief Judge' of the Order of June 2, 1999 rejected his pleading. The June 7, 1997 Order rejected his pleading because of the November 17, 1998 Civil Contempt Order, which was premised on the October 26, 1998 Order and October 13, 1998 Order barring Plaintiff from filing further papers in this suit other than an appeal of the October 13, 1998 Order. The filing of this pleading is in violation of said Orders. Furthermore, there is no appeal procedure available for the Chief Judge of this Dstrict to hear such an 'Appeal' and there is no basis for a hearing by a three judge panel pursuant to 28 USC § 2284.

THEREFORE, IT IS HEREBY ORDERED that said document ('Appeal to Chief Judge') and attachments are REJECTED for filing and that

the Clerk shall return said document and attachments to Plaintiff together with a copy of this Order.

DATED in Kalamazoo, MI: 6/28/99

s/RICHARD ALAN ENSLEN, Chief Judge"

7/1/99

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION

Filed 6/7/99

Donald Edgar Johnson,
Plaintiff

v Case No. 1:90cv175

Richard Gordon Johnson, et al,
Defendants

Hon Douglas W.Hillman

ORDER REJECTING PLEADING

Plaintiff has attempted to file an 'Appeal to Chief Judge' of the Order of June 2, 1999 rejected his pleading. The June 7, 1999* Order rejected his pleading because of the November 17, 1998 Civil Contempt Order, which was premised on the October 26, 1998 Order and October 13, 1998 Order barring Plaintiff from filing further papers in this suit other than an appeal of the October 13, 1998 Order. The filing of this pleading is in violation of said Orders. Furthermore, there is no appeal procedure available for the Chief Judge of this Dstrict to hear such an 'Appeal' and there is no basis for a hearing by a three judge panel pursuant to 28 USC § 2284.

THEREFORE, IT IS HEREBY ORDERED that said document ("Appeal to Cheif Judge') and attachments are REJECTED for filing and that the Clerk shall return said document and attachments to Plaintiff together with a copy of this Order.

DATED in Kalamazoo, MI: 7/1/99

s/RICHARD ALAN ENSLEN, Chief Judge"

*This Order has been amended to correct a clerical error pursuant to Fed.R. Civ P. 60(a)."

7/14/99 "UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION

Filed 6/7/99

Donald Edgar Johnson, Plaintiff

v Case No. 1:90cv175

Richard Gordon Johnson, et al, Defendant

Hon Douglas W.Hillman

ORDER

Donald Edgar Johnson, appearing pro se, originally filed this action in 1990, attempting to relitigate a 1974 decision issued by the Muskegon County, Michigan Circuit Cort with which he was unhappy. Years after final judgment was issued dismissing this case and after appeals have been exhausted, plaintiff has continued to file hundreds of meritless motions and briefs, a history of which was reviewed in this court's order of October 13, 1998.

On both December 19, 1990 and January 4, 1994, Judge Gibson issued orders requiring plaintiff to obtain leave of court before filing further pleadings. During the intervening years, the magistrate judge repeatedly reviewed and rejected such pleadings. As a result, on October 13, 1998, this court modified the previously issued injunctions and permanently enjoined plaintiff from filing any further pleadings in this matter or filing any additional actions arising out of the same transactions or occurrence as the subject matter of this litigation with exception of an appeal of the October 13, 1998 order (docket # 306).

In direct contravention of the October 13, 198 order, plaintiff continued to attempt to file pleadings other than a timely appeal. This court held a show-cause hearing and, on November 17, 1998,, entered an order of civil contempt: (docket # 315), fining plaintiff $200 as partial reimbursement of costs incurred as a result of his disregard of court orders and imposing a conditional fine of $20.0 for each and every subsequent attempt to file a pleading in this matter.

Since Novmber 17, 1998, instead of attempting to file new pleadings, plaintiff has sent multiple pleadings directly to Judge Hillman and Gibson and Chief Judge Enslen, in care of the Clerk's office. On June 8, 1999, amended July 1, 1999 (docket ## 320,321), Chief Judge Enslen rejected one such pleading entitled,

'Appeal to Chief Judge,' as both frivolous and violative of the October 13, 1998 order. Multiple other pleadings now have been received by this court including 'Supplement to Plaintiffs' Appeal to Chief Judge' dated June 28, 1999:

'Amenment to Plaintiffs' Motion for Reconsideration of 6/28/99 Order and Continuance of Pretrial Proceeding' dated July 4, 1999;

'2nd Amendment to Plaintiffs' Motion for Reconsideration of 6/28/99 Order and Continuance of Pretrial Proceeding' dated July 5, 1999;

3rd amendment to plaintiffs' Motion for Reconsideration of 6/28/99 Order and Continuance of Pretrial Proceeding' dated July 7, 1999;

"Supplement to Plaintiffs' Motion for Reconsideration of 6/8/99 Order and Continuance of Pretrial Proceedings' dated July 8, 1999;

'Amendment to 7/8/99 Supplement to Plaintiffs' Motion for Reconsideration of 6/28/99 order and Continuance of Pretrial Proceeding" dated July 10, 1999.

Multiple copies of each submission were directed to Judges Enslen, Hillman and Gibson.

This most recent flurry of pleadings addressed, not to the Clerk's office for filing, but directly to each of the judges, appears to be an end run around the October 13, 1999 order of civil contempt sanctioning such attempts in those decisions, this court enjoined plaintiff 'from filing any further pleadings in this action, and imposed a conditional fine 'for each pleading [plaintiff] attempts to file in this action....' (Emphasis added). Plaintiff appears to believe that by submitting pleadings directly to the judges and not attempting to file those pleadings he is not in direct violation of this court's prior orders. Contrary to plaintiff's apparent belief, however, this court does not receive and consider pleadings independent of filing, and the orders enjoining filings also bar submission of documents directly to the judges of this court. In the event plaintiff misunderstood the scope of the prior order, however.

IT IS ORDERED that the previously recited pleadings and other documents are REJECTED for filing and that the Clerk shall return said documents to plaintiff together with a copy of this order.

IT IS FURTHER ORDERED that the injunction of October 1, 1998 and order of civil contempt of November 17, 1998 are CLARIFIED as follows:

(1) Plaintiff hereby is permanently enjoined from filing, attempting to file or other submitting to any judge or any other person associated with this court an additional pleadings or other documents connected with this action or arising from the same transaction and occurences that were the subject matter of this litigation.

(2) Plaintiff shall be subject to a conditional fine of $200.00 for each such pleading or document connected with this action or arising from the same transaction or occurrences that werethe subject matter of this litigation that he attempts to file or to submit to any judge or any other person associated with this court.

IT IS SO ORDERED.

s/Douglas W. Hillman
Dated: JUL 14 1999 Senior District Judge

[1] Judge Gibson has retired and is no longer sitting as a U.S. District Judge."

7/28/99 "UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION
Filed 6/7/99

Donald Edgar Johnson, Plaintiff
v Case No. 1:90cv175
Richard Gordon Johnson, et al, Defendant
Hon Douglas W.Hillman

ORDER REJECTING PLEADING AND IMPOSING FINE

This action originally was filed in this court in 1990 and final judgment dismissing this complaint was issued on December 18, 1990 (docket # 103). This federal court action was an unsuccesful attempt to relitigate issues first decided in the Muskegon County, Michigan, Circuit Court in 1974. The matter now is before the court due to plaintiff's most recent

disregard of this court's orders.

After years during which plaintiff filed endless, meritless post-judgment pleadings, this this court issued an order on October 13, 1998, enjoining plaintiff from filing any further pleadings in this matter or in any new action arising out of the same transaction or occurrence as the subject matter of this litigation (docket # 306). When plaintiff promptly disregarded the October 13, 1998 order, the court ordered a show cause hearing (docket # 311). On November 17, 1998, following that hearing, the court entered an order of civil contempt (docket #315), fining plaintiff $200 as partial reimbursement for the costs incurred as the result of his disregard of court orders and imposing a conditional fine of $200 for each and every subsequent attempt to file pleadings in this matter.

Plaintiff paid the original $200 fine, but, notwithstanding the court's unambiguous order and conditional fine, he has continued to submit pleadings in the instant case. Most recently plaintiff apparently sought to avoid the injunction by not filing those pleadings directly with the Clerk of the Court, but instead attempting to submit his pleadings directly to the judges of this district. On July 14, 1999, this court issued yet another order (docket # 322), clarifying the order of contempt and specifically advising plaintiff that submission of motions or other pleadings directly to district judges did not constitute a separate procedure from an attempt to file pleadings. The court unequivocally advised plaintiff that submission of any document or pleading to any or any other person associated with the court would constitute a violation of the October 13, 1998 and November 17, 1998 orders. The court did not impose the conditional fine at that time, but advised plaintiff that any future submission would be subjected to the conditional fine.

In express violation of the July 14, 1998 order, plaintiff has now submitted, both to me and to Chief Judge Enslen, another pleading

entitled, 'Plaintiff's Motion for Reconsideration of 7/14/99 Order and Continuance of Pretrial Proceeding.' Plaintiff's submission of new pleadings in this matter expressly violates the injunctions of October 13, 1998, November 17, 1998 and July 14, 1999, and meets the condition triggering the conditional contempt fine ordered on November 17, 1998 and clarified on July 14, 1999. Accordingly,

IT IS ORDERED that the Clerk shall forthwith return to plaintiff the pleading entitled, 'Plaintiff's Motion for Reconsideration of 7/14/99 Order and Continuance of Pretrial Proceeding' and the supporting documents, together with a copy of this Order.

IT IS FURTHER ORDERED that not later than August 11, 1999, plaintiff shall pay $200 to the Clerk of Court for his attempt to file or submit said motion.

IT IS FURTHER ORDERED that plaintiff shall continue to be subject to the conditional fine set forth in the November 17, 1998 and July 14, 1999 orders for any future pleading or document filed or submitted in this action.

IT IS SO ORDERED.

s/Douglas W. Hillman
Dated: JUL 28 1999 Senior District Judge"

8/6/99 "UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION

Filed 6/7/99

Donald Edgar Johnson, Plaintiff
v
Case No. 1:90cv175
Richard Gordon Johnson, et al, Defendant
Hon Douglas W.Hillman

ORDER REJECTING PLEADING

This Court has examined the following proposed Emergency Petition for Writ of Mandamus received August 4, 1999, and orders the Clerk to reject the Emergency Petition for Writ of Mandamus and to reurn ti to Donald Edgar Johnson because the document needs an original signature on pages 10 and 11 by plaintiff Donald Edgar Johnson.

If the offering party wishes to resubmit a corrected pleading, a copy of this order should accompany the resubmitted pleading.

IT IS SO ORDERED.
Dated: 8/6/99 s/Hugh W. Brenneman, Jr.
U.S. Magistrate Judge"

9/28/99 "No. 99-1903
FOR THE SIXTH CIRCUIT
In re DONALD EDGAR JOHNSON FILED
SEP 28 1999
Petitioner LEONARD GREEN, Clerk
O R D E R

Before KRUPANSKY, NORRIS, and CLAY,
Circuit Judges

The petitioner is a persistent pro se litigant who has been enjoined by the district court from filing new pleadings or causes of action therin pertaining to the subject matter of a 1990 action without the prior approval of that court. He has also been sanctioned in the form of monetary fines, for violations of the above injuction. He now seeks from this court a writ of mandamus which would have the affect of requiring the district court to accept and address the merits of his latest pleading in the 1990 action and to vacate all prior orders denying relief to the petitioner in that action.

In 1974, a Michigan state court rendered a decision adverse to the petitioner in a family property dispute. Since that time, the petitioner has sought to have that judgment set aside. After state appeals pproved futile, he filed his first federal action in 1990. That civil rights complaint asserted that various family members, attorneys, and state court personnel conspired to deprive him of his rights in the disputed property. The district court dismissed that action in December 1990 and this court affirmed such dfismissal. Johnson v. Johnson No. 91-1160, 1991 WL 138458 (6th Cir July 29, 1991) (order) cert. denied, 502 U.S. 1059 (1992). In so doing, this court observed that even construing his complaint in the most favorable light, the petitioner 'undoubtedly can prove no set of facts in support of his claims that would entitle him to relief' 1991 WL 138458l at #1.

Since that time,the petitioner has continued

to file various pleadings in the district court attacking the dismissal of his action. In 1992, this court affirmed three orders of the district court denying post-judgment relief. Johnson v Johnson, No. 92-1829, 1992 WL 392892 (6th Cir. Dec 23, 1992) (order). In 1995, this court again affirmed the district court's denial of motions under Rule 59 and 60, Fed R Civ. P. Johnson v Johnson, No. 94-2305, 1995 WL 385142 (6th Cir. Jun 27, 1995) (order), cert. denied, 516 U.S. 1115 (1996). Reviewing his record before this court, the panel in that appeal warned the petitioner the continued filing of frivolous appeals could result in the imposition of sanction. 1995 WL 385142 at *2. Undaunted, the petitioner filed two more appeals in which this court denied relief. Johnson v. Johnson. Nos. 96-1826/1979, 1997 WL 225503 (6th Cir May 1, 1997) (unpublished order). Again, a panel of this court issued a warning to the petitioner:

> 'Finally, [the petitioner] is again warned that further appeals involving this subject matter may lead to sanctions including, but not limited to, an order enjoining such appeals in the future.' 1997 WL 225503, at *2.

Meanwhile, the district court entered orders enjoining the petitioner from filing further pleadings in regard to the 1990 action without first obtaining leave from magistrate judge. After the petitioner filed his 202nd and 203rd pleadings following the December 1990 entry of judgment in the 1990 action, the district court entered an order on October 13, 1998, permanently enjoining the petitioner from filing any further pleadings in the 1990 action. The petitioner violated that injunction within two weeks and the district court ordered him to appear in court to show cause why he should not be beld in contempt. Following a hearing, the plaintiff was found in contempt, fined $200 for the pleading already filed, and was subjected to prospective $200 fines for any future pleadings filed in violation of the court's injunction. Although a notice of appeal from the order of contempt was exempted from

from the order of contempt was exempted from such fines, the petitioner did not file an appeal. When the petitioner attempted to avoid the injunction by sending numerous pleadings directly to chambers, the district court modified the injunction on July 14, 1999, to enjoin that practice as well. On July 28, 1999, the district court fined the petitioner another $200 for violating that order by submitting new pleadings directly to the judges of the district court.

In the present mandamus petition, the petitioner raises a number of 'issues' which question the rulings made by the district court in the 1990 action, including the rulings on the numerous post-judgment motions made by the petitioner. For relief, he appears to seek an order which would vacate all those rulings, reinstate the 1990 action, and direct a trial on the merits of that action.

The remedy of mandamus is a drastic one, to be invoked only in extraordinary situations where the petitioner can show a clear and indisputable right to the relief sought.' In re American President Lines, Ltd., 929 F2d 226,226 (6th Cir. 1991)(order). We dscern nothing in the present petition or the voluminous exhibits attached thereto which would even marginally warrant mandamus review in this matter.

It therefore is ORDERED that the petition for writ of mandamus is dismissed as frivolous.

Upon further consideration, we conclude it is time for this court to impose the sanctions stopping the filing of such origi nal actions in the future. In this past, this court has twice warned the petitioner about possible sanctions stemming from the fililng of frivolous appeals. Although the present petition is submitted as one for mandamus relief, it is clear it is an effort by the petitioner to seek renewed review of all the proceedings in the district court since 1990. The district court has already found it necessary to enjoin the filing therein of further pleadings or new actions related to

the 1990 action. Although permitted an opportunity to file a notice of appeal from the recent imposition of sanctions in that court, the petitioner has chosen not to do so. We conclude the present petition is merely another attempt to undo, in one bold stroke, the results of nine years of federal litigations stemming from a state court judgment which is now 25 years old. These attempts unnecessarily burden the court's time and energies, unfairly divert court resources from other cases, and generally constitute an unwarranted and purposeful abuse of this court's docket.

It therefore is ORDERED further that the clerk of this court not accept for filing from the petitioner any original action (e.g., a petition for a writ of mandamus, prohibition, habeas corpus, or any other similar action which is filed initially in this court) pertaining to the subject matter of the 1990 federal action or any of the proceedings stemming from that action. This order shall not apply to direct appeals permitted by the district court from any future findings of contempt in that court.

ENTERED BY ORDER OF THE COURT
s/Leonard Green, Clerk

APPENDIX B: 1970-89 OTHER CHRONOLOGICAL OPINIONS, ORDERS, FINDINGS OF FACTS, AND CONCLUSIONS OF LAW ENTERED IN THE NONCLOSED 1990 CASE INCLUDING COMPANION CASES NECESSARY TO ASCERTAIN GROUNDS OF THE 1990-99 ORDERS TO BE REVIEWED:

6/26/70 Confidence Game perpetrator respondent LANDMAN law firm (a) represented Hackley Union National Bank & Trust Co with its pre-1964 mortgage on the Musikist nightclub land; (b) had August-1964 represented Don re a nightclub purchase and learned that a Chicago attorney had 1958 wrongfully registered a worthless Kandy Tapes And Records Corp (Illinois); (c) was secretly seeking to claim title for use as collateral in a forthcoming Hackley bank-Comerica bank merger; (d) 1/11-3/18/65 played a role in attorney Engel-Jr's drafting the unlawful 2/9 and 4/15/65 Trust Agreements with invalid $20,600 Donald E. Johnson promissory note and mortgage on Musikist land; (e) represented both the 3 Johnson respondents-disguised as moneylenders and land contract sellers of the Musikist; (f) programmed Hackley Bank's VP Don McClary to program M.O. Champion to 1967 give to the blacks a worthless Kandy Tapes And Records Corp (Mich), purchase a nearby nightclub, and steal Don's 1970 business; (g) drafted 1970 foreclosure papers against Don dba Musikist using said invalid note and mortgage; (h) colluded with O'TOOLE atty Hipkiss to keep Don from attending the foreclosure hearing; and (i) procured the following 6/26/70 Default Judgment against Don for public and private use-infliuencing votes in violation of the federal Constitution and laws:

"STATE OF MICHIGAN

CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

RICHARD G. JOHNSON, TRUSTEE Case No. C-4921

Plaintiff,

v. DEFAULT JUDGMENT

DONALD E. JOHNSON
Defendant. ENTERED 6/26/70

"The default of Donald E. Johnson, defendant in the above cause, having been regularly entered pursuant to G.C.R. 520, the defendant having failed to appear in said action, and the damages of plaintiff having been regularly assessed by the Court at $35,835.29:

THEREFORE IT IS ORDERED AND ADJUDGED that there is due to the plaintiff upon the note and mortgage mentioned and set for in the complaint, for principal and interest and unpaid real estate taxes, the sum of $35,835.29 and that the said defendant pay or cause to be paid, to the said plaintiff, the sum so as aforesaid decreed to be due to the plaintiff with the interest thereon, at the rate of six percent (6%) per annum from this date, and the cost of the said plaintiff expended in this suit of $35.80, to be taxed for the proceedings taken and had in this cause to foreclose the mortgage aforesaid, on or before the 12th day of January, 1971, and in default thereof, that all and singular the said mortgaged premises mentioned in the complaint in this cause, and hereinafter described or so much thereof as may be sufficient to raise the amount so as aforesaid decreed to be due to the plaintiff with the interest thereon and the cost in this case * * *

IT IS FURTHER ORDERED that in six months from the date of such sale, the defendant and all persons claiming or to claim from or under him be forever barred and foreclosed of and from all equity redemption, and claim of, in and to the said mortgaged premises so sold and every part and parcel thereof, which shall not, prior to that time, been redeemed from such sale.

IT IS FURTHER ORDERED, that the purchaser or purchasers of the said mortgaged premises at such sale be let into possession of such premises at the time of said sale and placed in possession of all such portions thereof

as shall not have been so redeemed; and that any of the parties to this caus, who may be in possession of said premises, or any part thereof, and any person who, since the commencement of this suit, has come into possession under them or either of them, deliver possession thereof to such purchaser, on production of the deed of the said District Judge for such premises and a certified copy of the order confirming the report of such sale after such deed has become operative.

AND IT IS FURTHER ORDERED, that if the monies arising from such sale be insufficient to pay the amount so as aforesaid decreed to be due * * * Donald E. Johnson * * * pay to the plaintiff the amount of such deficiency, with interest thereon from the date of such report.

The description and particular boundaries of the property * * * are more particularly described as follows, to-wit: Parcel 1. Commence 254.25 feet South * * * Parcel 2. Commence 254.25 feet South * * * Dated: June 26, 1970. s/CHARLES A. LARNARD, Circuit Court Judge."

11/27/74 "Bought-With Stolen Title To Don's Kandy Tapes & Records Corp. Or Muskegon Mayor/Commissioner Donald E. Johnson-Signed Invalid "Kandy Tapes And Records Corp." County Trial Judge Piercey's OPINION Just After Don Presented His Long List Of Proofs Of Family Joint Venture, Before Any Closing Argument, And Just Before He Walked Off The Bench:

"You have tried to translate fatherly, motherly, brotherly, concern for your interest into some kind of a joint venture * * * This was never a joint venture * * * And as far as I am concerned, you rested * * * You may not have ever used that form -- the words: 'I rest'; but * * * You have been saying it for two weeks, and I'm through!" (Whereupon the Judge walked off the Bench.)

12/9/74 County Trial Judge Piercey's Case No. 73-C7432-CK Partial Trial's Dismissal Judgment That U.S. District Judge Gibson 12/19/90 Ordered Not To Be Attacked. Prepared By Confidence Game Perpetrator-Perpetuator Respondent LANDMAN Firm, It Contains FRAUDS UPON COURTS: (1) That "Plaintiff Rested His Case," (2) That "The Defendants Having Moved For Judgment At The End Of Plaintiff's Case", (3) That "The Court Having Made Findings Of Fact And Conclusions Of Law," And (4) That "Plaintiff Not Having Proven The Allegations Contained In His Complaint":

"STATE OF MICHIGAN
IN CIRCUIT COURT FOR THE COUNTY OF MUSKEGON
FILED 1974 DEC 9 PM 2:44

* * *

DONALD EDGAR JOHNSON,
Plaintiff, File No. 73-7432-CK

v.

CARL ALFRED JOHNSON, SR., et al,
Defendants. JUDGMENT

Donald Edgar Johson
In Propria Persona
William F. McNally (P-17533)
Attorney for Defendants

At a session of said Court held in the County Building in the City of Muskegon, County and State aforesaid, on the 9th day of December, 1974.

PRESENT: s/JOHN H. PIERCEY, CIRCUIT JUDGE

"The above entitled action having come on for trial, the plaintiff having presented evidence and rested his case, the defendants having moved for Judgement at the end of plaintiff's case, the Court being fully advised in the premises, and the Court having made findings of fact and conclusions of law,

IT IS ORDERED, that defendants' Motion be and hereby is granted and Judgement of No Cause of Action be entered in favor of the Defendants, with costs and statutory attorneys fees being taxed against plaintiff, plaintiff not having proven the allegations contained in his complaint for the reasons set out in the opinion of the Court rendered in open court.

s/JOHN H. PIERCEY, CIRCUIT JUDGE

Countersigned: s/James C. Shields, Jr.,
Deputy Clerk.

Approved as to Form:

Donald Edgar Johnson
Plaintiff
4984 Grand Haven Road
Muskegon, Michigan 49441

s/William F. McNally
William F. McNally, of
LANDMAN, HATHAWAY,
LATIMER, CLINK & ROBB
Attorneys for
Defendants
500 Hackley Bank Bldg.
Muskegon, Michigan 49443

9/14/75 STATE OF MICHIGAN - COURT OF APPEALS
Donald E. Holbrook, Jr P.J. No. 22496
DONALD EDGAR JOHNSON, Pltf-Appel
v LC:73-C7432-CK
CARL A. JOHNSON, Sr., Et Al. Defs-Apellees.
Defs' motion to dismiss is DENIED. Pltf's motions to use capsule statements DENIED. DEN 3/4/00
(Exact copy of this order was STOLEN).

7/2/75
AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN 56870
Entered 7/2/75
DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. CARL ALFRED JOHNSON, SR., et al,
Defendants-Appellees COA 22496; LC 74-7432
"On order of the Court, plaintiff-appellant's in pro per motion for leave to use proposed capsule staements and proposed statement of proceedings and facts, and his motion for the production of certain records, are considered, and the same are hereby DENIED as not appropriate under the general court rules."

2/5/76 State Court Of Appeals Ordered Transcripts To Be Filed In The Muskegon County Circuit TRIAL Court:
"STATE OF MICHIGAN - COURT OF APPEALS
AT A SESSION OF THE COURT OF APPEALS
OF THE STATE OF MICHIGAN * * * 2/5/76
DONALD EDGAR JOHNSON,
Plaintiff-Appellant
v. Donald E. Holbrook,Jr., P.J.
CARL ALFRED JOHNSON, SR.,
RICHARD GORDON JOHNSON, and
CARL ALFRED JOHNSON, JR.,

Jointly and severally, Docket #22496
Defendants-Appellees L.C. No. 73 C-7432 CK

"In this cause this Court having issued an order on September 24, 1975 denying the defendants-appellees' motion to dismiss and the defendants-appellees having filed a motion for reconsideration of this Court's order denying the motion to dismiss, and various motions for leave to use proposed capsule statement of proceedings having been filed by the plaintiff-appellant, and due consideration thereof having been had by the Court,

IT IS ORDERED that the motion for reconsideration be, and the same is hereby GRANTED,

...IT IS FURTHER ORDERED that this appeal be, and the same is hereby DISMISSED without prejudice to the filing of an application for delayed appeal pursuant to GCR 806.4 after the full transcripts of the proceedings have been filed in the trial court,

IT IS FURTHER ORDERED that the various motions for leave to file various capsule statementy of proceedings filed by the plaintiff-appellant be, and the same are hereby DENIED."

5/26/76

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN

56870 Entered 5/26/76

DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., Defendants-Appellees

COA 22496; LC 73-C-7432

"On order of the Court, the application in pro per for leave to appeal is considered, and the same hereby is DENIED, because appellant has failed to persuade the Court that the questions presented should be reviewed by this Court.

The motion by appellant to add defendants-appellees is also considered, and the same hereby is DENIED."

10/3/77 6th Cir. Court Of Appeals Denied Don's F.R.A.P. 44 Motion For Certification To U.S. Attorney General Of CONSTITUTIONAL QUESTION:

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

FILED OCT 3 1977 No. 77-1346

DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. CARL ALFRED JOHNSON, SR., ET AL., Defendants-Appellees

This cause having come before the court on the motion of the appellant for certification to be made to the Attorney General of the United States of a question raised in this appeal as to the constitutionality of an Act of Congress, pursuant to Rule 44, Fed.R.App.P.; and

This court having reviewed the record and pleadings in the cause and being unable to discover any such challenge to the constitutionality of any Act of Congress as suggested by appellant;

It is therefore ORDERED that the motion be denied."

12/29/77

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN

60385 Entered 12/29/77

DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. CARL ALFRED JOHNSON, SR.,et al, Defendants-Appellees

COA 22496; LC 73-C-7432

"On order of the Court, the application in propria persona for leave to appeal and the emergency motion for prompt adjudication are considered, The emergency motion is GRANTED and the application is DENIED, because the Court is not persuaded that the question presented should be reviewed by this Court."

8/23/77 Pltf's Motion In State Court Of Appeals For Stay of 2/5/76 Dismissal Order DENIED:

AT A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN No. 22496 Entered 8/23/77

Donald E. Holbrook, Jr. P.J.

DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. L.C. No. 73 C7432 CK

CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALRED JOHNSON, JR., jointly and severally, Defendants-Appellees.

"In this cause, plaintiff-appellant has filed a motion for stay of this Court's order of dismissal entered on February 5, 1976, and answer in opposition thereto having been filed, and due consideration thereof having been had by the Court,

IT IS ORDERED that the motion for stay be, and the same is hereby DENIED."

12/29/77

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN

60385 Entered 12/29/77

DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., Defendants-Appellees

COA 22496; LC 73-C-7432-CK

"On order of the Court, the application in propria persona for leave to appeal and the emergency motion for prompt adjudication are considered. The emergncy motion is GRANTED and the application is DENIED, because the Court is not persuaded that the question presented should be reviewed by this Court."

11/15/78 Deft Judge Danhof Who Was Nonjudicially Involved In Perpetuating Defts 3 Johnsons' Disguise DENIED Don's Motion For Stay Of Court's 2/5/76 Dismissal And Motion For Disqualification Of Deft Landman Partnership From Representing Deft 3 Johnsons:

AT A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN Entered 11/15/78 No.22496

Robert J. Danhof, C.J., Presiding Judge

DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. L.C. No. 73 C7432 CK

CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALRED JOHNSON, JR., jointly and severally, Defendants-Appellees.

"In this cause, plaintiff-appellant has filed a motion for stay of this Court's order

of dismissal entered on February 5, 1976 and a motion for disqualification of counsel for defendants-appellees, and no answerin opposition thereto having been filed, and due consideration thereof having been had by the Court;

IT IS ORDERED that the motion for stay and the motion for disqualification be and the same are hereby DENIED."

10/26/79: Deft Judge Danhof DENIED Don's Application For Delayed Appeal Of Right "Because It Is Filed More Than 18 Months After The Entry Of The December 9, 1974 Order Appealed From":

AT A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN Entered 10/26/79 No.45093
Robert J. Danhof, C.J., Presiding Judge
DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. L.C. No. 73 C7432 CK
CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALRED JOHNSON, JR., jointly and severally, Defendants-Appellees.

In this cause an application for leave to appeal and motion for waiver of fees, and a motion for immediate consideration thereof are filed by plaintiff-appellant, and nothing in opposition thereto having been filed, and due consideration thereof having been had by the Court, IT IS ORDERED that the motion to waive fees be, and the same is hereby GRANTED;

IT IS FURTHER ORDERED that the motion for immediate consideration be, and the same is hereby GRANTED:

IT IS FURTHER ORDERED that the application be, and the same is hereby DENIED for lack of jurisdiction. GCR 1963, 806.2(5), in this application plaintiff seeks review of a December 9, 1974 circuit court dismissal of his action. The May 8, 1979 circuit court order involves post-judgment motions which plaintiff filed in circuit court in an attempt to perfect an application for delayed appeal before this Court. This Court may not grant plaintiff's application because it is filed more than 18 months after the entry of the Decdmber 9, 1974 order appealed from."

3/11/80

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN

Entered 3/11/80

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,

SC: 64310
COA: 45093
LC: 73-C7432-CK

v.

CARL ALFRED JOHNSON, SR.,
RICHARD GORDON JOHNSON,
CARL ALFRED JOHNSON, JR.,
Jointly and severally,
Defendants-Appellees.

"On order of the Court, the motions for immediate consideration are considered, and they are GRANTED. The application in propria persona for leave to appeal is also considered, and it is DENIED, because the Court is not persuaded that the questions presented should be reviewed by this Court."

2/8/82 County Judge Piercey HEARING:

"THE COURT: Your motion, as I understand it, is to add the Landman law firm as Defendants?

DONALD JOHNSON: ... The bottom line of this whole problem here is: 'Were the Defendants moneylenders or joint venturers?' And I repeat that they never did let me have custody of their money or property. They always had their joint control of it.

THE COURT: I don't recall ever calling them moneylenders. I think I referred to them as giving you money, giving you money, not lending you money.

PLAINTIFF: They didn't give me money because I never got it. Their money stayed under their control. Had they given me their money, I would have had it in my bank account of my personal possession where I could reach in any time I wanted to and take it out and spend it the way I wanted. That never happened. They never gave me any money."

5/10/82 County Trial Judge Piercey Ordered County Circui Court Records To Accept No More Pleadings From Don Unless Ordered To By A Higher Court:

"TO: Circuit Court Records
FROM John H. Piercey, Circuit Judge

You are herewith instructed to accept no more pleadings in the case of - Donald Edgar Johnson v Carl Alfred Johnson, Sr., Richard Gordon Johnson, Carl Alfred Johnson, Jr., joint and severally, Defendants; File No. 73-C7432, unless directed by the Court of Appeals or a higher Court. s/John H. Piercey."

11/23/82 In A "No Judges" Ruling And After Resulted Indigent Don 1976-82 Bootstrapped himself Off Public Welfare And Piecemeal Filed $5,000 Full Transcripts Of The Proceedings In TRIAL COURT Pursuant To 2/5/76 Order, "Danhof's Court" Denied Don's Application For Delayed Appeal Of Right Because Don Did Not File Those Transcripts In The COURT OF APPEALS:

"STATE OF MICHIGAN - COURT OF APPEALS
AT A SESSION OF THE COURT OF APPEALS
OF THE STATE OF MICHIGAN * * *
DONALD EDGAR JOHNSON

Present _____

Plaintiff-Appellant,

v 11/23/82

CARL ALFRED JOHNSON, SR.,
RICHARD GORDON JOHNSON, and
CARL ALFRED JOHNSON, JR.,
Jointly and severally, Docket No.59895

Defendants-Appellees L.C. #73 C-7432-CK

* * * In this cause the plaintiff-appellant has filed an emergency application for leave to file a delayed appeal of a judgment entered on December 9, 1974, and an order denying relief in the circuit court dated February 11, 1982, and no answer in opposition thereto having been filed, and due consideration thereof having been had by the Court, IT IS ORDERED that the application be, and the same is hereby DENIED for lack of jurisdiction in the Court of Appeals, GCR 1963, 806.2(5).

Plaintiff-appellant's application seeks delayed review of proceedings which terminated in a judgment adverse to him on December 9, 1974. His failure to file an appropriate record in No. 22496 resulted in dismissal of that claim of appeal, without prejudice to filing a delayed appeal pursuant to GCR 1963, 806.4(2)

and upon filing full transcripts with this court. See order dated February 5, 1976.

Plaintiff-appellant's failure to file any transcripts with the Court until October 2; 1979, resulted in an order denying an application for leave to file a delayed appeal dated October 23, 1979. Because this applicaion also is outside the 18-month rule of GCR 1963, 806.2(5), it is likewise DENIED for lack of jurisdiction.

s/_____"

5/4/83 County Trial Judge Piercey's Replacement Judge #1 Judge Pannucci Ordered Due Process Hearing To Determine If The 12/9/74 Judgment Was Procured And Prolonged By FRAUDS UPON THE COURT:

TO: Mrs. Helen Cremax, Case Assignment Clerk
FROM: HON. RONALD H. PANNUCCI, CIRCUIT JUDGE
RE: DONALD EDGAR JOHNSON V. CARL ALFRED JOHNSON, ET AL
DATED: May 4, 1983.

Please see attached Emergency Motion. This matter is scheduled for Friday, May 13, 1983 at 2:30 p.m. You will please make necessary arrangements to have a District Court Judge present to hear this motion, as well as pleas which I am advised you have previously scheduled.

I am aware of a previous Judge Piercey Order denying Plaintiff an opportunity to file any pleadings. I am setting aside this Order to allow Plaintiff his day in court.

cc: Mr. Donald E. Johnson
Mr. William F. McNally
Circuit Court Records
Hon. R. Max Daniels
Hon. Jas. M. Graves, Jr.

I HEREBY CERTIFY THIS TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE WITH THE OFFICE OF THE COUNTY CLERK * * *
s/SHERYL L. ALBERTIE, Muskegon County Clerk"

5/6/83

"STATE OF MICHIGAN IN THE CIRCUIT COURT
FOR THE COUNTY OF MUSKEGON
DONALD EDGAR JOHNSON,
Plaintiff-Appellant,
v. File No. 73-C7432-CK
CARL ALFRED JOHNSON, SR., et al,

After reading of the Petition and review of the file, it is the order of this Court that plaintiff * * * be **prohibited from filing any additional or further pleadings in this matter** to prevent the efficient administration of justice, and all such further filings shall not in the regular due procedure of filing for an appeal from previous orders and judgments entered in this case be followed. Any violation of this order shall subject the Plaintiff-Appellant to **contempt of this Court.** This order shall become effective immediately upon entry with the Clerk. s/Michael E. Kobza, Circuit Judge."

5/10/83 Pltf's Case No. 73-C7432-CK Was Denied Due Process-Equal Protection Motion For New Trial's **Evidentiary Hearing** Because Of Respondent LANDMAN Partnership's (Including **Attys Culver & McNally**) 6/6/83 **FRAUD ON COURTS** That "The Judgment From Which Plaintiff Johnson Seeks Relief Was Entered **Many Years Ago**, And The **Full Appellate Process Has Been Exhausted**":

"STATE OF MICHIGAN IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON
DONALD EDGAR JOHNSON,
Plaintiff-Appellant,
v. O R D E R
CARL ALFRED JOHNSON, SR.,
RICHARD GORDON JOHNSON, and Circuit Court
CARL ALFRED JOHNSON, JR., File No.73-C7432-CK
jointly and severally,
Defendant-Appelles. CALENDARED

The court has reconsidered the May 4, 1983 memorandum;

It is therefore ORDERED that the May 10. 1982 Order signed by Judge Piercey is

reinstated.

The Clerk is instructed to return all pleadings and fees.

Dated: May 10, 1983. s/RONALD H. PANNUCCI, Chief Circuit Judge

cc: Mrs. Helen Crehan
Circuit Court Records
Mr. Donald E. Johnson
Mr. William F. McNally

I HEREBY CERTIFY etc."

6/29/83 County Judge Piercey's Replacement #2 Judge Kobza Ordered Don To Remove His Preponderance Of Evidence Presented In 1974 Partial Trial From The County Courthouse Files As If Case 73-C7432-Ck Had Been Provided An Appeal By The Michigan Court of Appeals When It Really Had NOT:

"STATE OF MICHIGAN IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,

v. File No. 73-C7432-CK

CARL ALFRED JOHNSON, SR., et al,
Defendants-Appellees.

"This Court is advised certain exhibits are currently on file with the Muskegon County Clerk's office, Court Records Dept., in the above determined matter, and that it is the opinion of the Court said cause was appealed and the Michigan Supreme Court has denied leave to appeal further, the time for filing any motion for reconsideration long since passed; **IT IS HEREBY ORDERED all exhibits in the possession of the Court Records be picked up by the Plaintiff, Donald Edgar Johnson, by Friday, July 1, 1983, 12:00 o'clock noon;** and he is to sign a prepared receipt therefor, or this Court will order them removed and/or destroyed in accordance with the General Court Rule so providing. This Order is to take effect immediately. s/Michael E. Kobza."

9/27/83

"STATE OF MICHIGAN - COURT OF APPEALS

AT A SESSION OF THE COURT OF APPEALS
OF THE STATE OF MICHIGAN * * *
DONALD EDGAR JOHNSON

John H. Shepard, P.J.

Plaintiff-Appellant,

v 9/27/83

CARL ALFRED JOHNSON, SR.,
RICHARD GORDON JOHNSON, and
CARL ALFRED JOHNSON, JR.,
Jointly and severally, Docket 50565
Defendants-Appellees L.C. #73 C-7432-CK

"In this cause a delayed application for leave to appeal and motion for immediate consideration are filed by plaintiff-appellant, and no answer in opposition thereto having been filed, and due consideration thereof having been had by the Court,

IT IS ORDERED that the motion for immediate consideration be, and the same is hereby GRANTED,

IT IS FURTHER ORDERED that the application be, and the same is hereby DENIED for lack of merit in the grounds presented."

1/30/84

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN

Entered 1/30/84

DONALD EDGAR JOHNSON,
Plaintiff-Appellant, SC: 73254
v. COA: 50565
CARL ALFRED JOHNSON, SR., LC: 73-C7432-CK
RICHARD GORDON JOHNSON,
CARL ALFRED JOHNSON, JR.,
Jointly and severally,
Defendants-Appellees.

On order of the Court, the application for leave to appeal is considered, and it is DENIED, because the Court is not persuaded that the questions presented should be reviewed by this Court."

9/20/84 No Judge Listed!!

"STATE OF MICHIGAN - COURT OF APPEALS
AT A SESSION OF THE COURT OF APPEALS
OF THE STATE OF MICHIGAN * * *
DONALD EDGAR JOHNSON

Present _____

Plaintiff-Appellant,

v 9/20/84

CARL ALFRED JOHNSON, SR.,
RICHARD GORDON JOHNSON, and
CARL ALFRED JOHNSON, JR.,
Jointly and severally, Docket No. 59895
Defendants-Appellees L.C.#73C-7432-CK

"In this cause an application for leave to appeal is filed by plaintiff-appellant, and no answer in opposition therein having been filed, and due consideration thereof having been had by the Court,

IT IS ORDERED that the application be, and the same is hereby DENIED for lack of merit in the grounds presented."

3/28/85

AT A SESSION OF THE SUPREME COURT OF THE
STATE OF MICHIGAN Entered 3/28/85
DONALD EDGAR JOHNSON,
Plaintiff-Appellant, SC: 75403
v. COA: 78170
CARL ALFRED JOHNSON, SR., LC: 73-C7432-CK
RICHARD GORDON JOHNSON,
CARL ALFRED JOHNSON, JR.,
Jointly and severally,
Defendants-Appellees.

"On order of the Court, the application in propria persona for leave to appeal is considered, and it is DENIED, because the Court is not persuaded that the question presented should be reviewed by this Court."

2/4/86

"STATE OF MICHIGAN - COURT OF APPEALS
AT A SESSION OF THE COURT OF APPEALS
OF THE STATE OF MICHIGAN * * *
DONALD EDGAR JOHNSON, Present _____
Plaintiff 2/4/86 No. 88008
V.
MUSKEGON CIRCUIT COURT JUDGE,
CARL ALFRED JOHNSON,
RICHARD GORDON JOHNSON, and
CARL ALFRED JOHNSON, JR., LANDMAN LATIMER CLINK & ROBB, Law Firm Partnership, and WILLIAM F. MCNALLY
Defendants.

"In this cause a complaint for superintending control and motion for immediate consideration are filed by plaintiff, and no answer in opposition thereto having been filed, and due consideration thereof having been had by the Court,

IT IS ORDERED that the motion for immediate consideration be, and the same is hereby GRANTED,

IT IS FURTHER ORDERED that the complaint for superintending control be, and the same is hereby DENIED for lack of merit in the grounds presented."

Judge Shepherd would order pursuant to MCR 7.206(B)(3) that the Muskegon County Circuit Court shall allow plaintiff to file an independent action based upon alleged fraud upon the Court, MCR 2.612(C)(3), provided that the requisite fees and costs are either paid, waived or suspended. By allowing plaintiff to file an independent action below, this Court expresses no opinion on the form and content of the pleadings which may be filed, merits of plaintiff's action or any defenses which may be raised."

6/20/86 In A "Non-Evidentiary" Hearing, County Judge Kozba (1) Ordered That Don's No. 73-C7432-CK And Independent Action No. 86-21207-CZ Seeking "Fraud Upon Court" Evidentiary Hearing Be Consolidated; (2) Denied Don's Request For Disqualification Of Respondent CULVER And O'TOOLE Law Firm Partnerships From Dual Representation Of Nightclub Sellers And Joint Venture Deft 3 Johnsons Disguised-As-Moneylenders Buyers:

"STATE OF MICHIGAN IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

DONALD EDGAR JOHNSON,
Plaintiff,

v. File No. 86-21207-CZ

RICHARD GORDON JOHNSON,
CARL ALFRED JOHNSON, JR.;
and ESTATE OF CARL A.
JOHNSON, SR., Jointly and Severally,

Defendants.

DONALD EDGAR JOHNSON, In Pro Per
FRED C. CULVER, JR. (P-12381)
Attorney for Defendants Richard Gordon Johnson and Carl Alfred Johnson, Jr.
Culver, Lague & McNally
500 Terrace Plaza
Muskegon, Michigan 49443
Telephone: 725-8148

THOMAS J. O'TOOL (P-18558)
Attorney for Defendant Estate of Carl A. Johnson, Sr.

JUDGMENT ORDER

At a session of said court held in the County Building, Muskegon, Michigan, on the 20th day of June, 1986.

PRESENT: HON. MICHAEL E. KOBZA, Circuit Judge.

"Defendants having filed their motion for summary disposition of all of plaintiff's claims for failure to state any claim upon which relief can be granted pursuant to MCR 2116(C)(8), and the Court having fully considered plaintiff's arguments in reply, and oral arguments having been heard in open court on April 21, 1986, and

The Court having initiated its own dispositive motion and order on or about May 7, 1986,

IT IS ORDERED that Muskegon County Circuit Court Action 73-C-7432-CK be consolidated with the instant case 86-21207-CZ, and

IT IS FURTHER ORDERED, in accordance with this Court's findings on the record, together with this Court's Opinion and Order of May 7, 1986, that plaintiff's claims be dismissed with full prejudice, but without costs, and plaintiff's emergency motion and objection to the entry of this judgment order are denied, and

IT IS FURTHER ORDERED that plaintiff not submit any further documents or pleadings to be filed in Muskegon Circuit Court in these consolidated matters.

s/HON. MICHAEL E. KOBZA, Circuit Judge"
(On CULVER LAGUE & McNALLY stationery).

6/20/86

"THE COURT: You do not have a right to pick your opponents' counsel." County Judge Kobza's 6/20/86 Hearing.

6/30/86

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN Entered 6/30/86

DONALD EDGAR JOHNSON,
Plaintiff-Appellant, SC: 78441

v. COA: 88008

MICHAEL E. KOBZA; CARL ALFRED JOHNSON; RICHARD GORDON JOHNSON; CARL ALFRED JOHNSON, JR.; LANDMAN, LATIMER, CLINK & ROBB; and WILLIAM F. McNALLY, et al, Defendants-Appellees.

"On order of the Court, the delayed application in propria persona for leave to appeal is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court."

10/22/86

"At A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN No.92822

DONALD EDGAR JOHNSON, Plaintiff-Appellant,

v. Entered 10/22/86

RICHARD GORDON JOHNSON,
CARL ALFREDJOHNSON, JR.,
and the Estte of CARL A. JOHNSON, SR.,
Defendants-Appellees.

L.C. 73 C7432CK+86 21207CZ

In this cause, plaintiff-appellant has filed a motion to compel the trial court to re-accept trial exhibits, and no answer thereto having been filed, and due consideration thereof having been had by the Court;

IT IS ORDERED that the motion be, and the same is hereby DENIED."

2/25/87-5/6/88 **State Court Of Appeals (1) Denied Don's Motion To Compell Transmission Of Complete-With-Evidence Record To State Court Of Appeals, And (2) Denied Evidentiary Hearing:**

COURT OF APPEALS - STATE OF MICHIGAN

DONALD EDGAR JOHNSON,

Plaintiff-Appellant,

V. 92822 FILED 2/25/87 L.C. 86 21207CZ

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., and The ESTATE OF CARL A. JOHNSO, SR.,

Defendants-Appellees,jointly and severally,

"In this cause, plaintiff-appellant, has filed a motion to compel the transmission of the lower court record in Muskegon County Circuit Court No. 73-C7432 to this Court, and a motion to expedite and no answer thereto having been filed, and due consideration thereof having been had by the Court; IT IS ORDERED that the motion be and the same is hereby DENIED at this time. The denial of the motion shall not bar this Court from requesting the transmittal of the record if the Court later determines that it needs the record in Muskegon County Circuit Court No. 73-C7432; IT IS FURTHER ORDERED that the motion to expedite be and the same is hereby DENIED."

5/22/87

AT A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN Barbara B. MacKenzie, P.J.

DONALD EDGAR JOHNSON, Plaintiff-Appellant,

V. ENTERED 5/22/87 No. 92822

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., and the Estate of CARL A. JOHNSON, SR., jointly and severally, Defendants-Appellees.

L.C.73 C7432CK+86 21207CZ

"In this cause plaintiff-appellant has filed a motion to disqualify Chief Judge Danhof, and no answer in opposition thereto being filed, and due consideration thereof having been had by the Court;

IT IS ORDERED that the motion be, and the same is hereby DENIED."

6/15/87

AT A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN

Barbara B. MacKenzie, P.J.

DONALD EDGAR JOHNSON, Plaintiff-Appellant,

V. ENTERED

6/15/87 No. 92822

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., and the Estate of CARL A. JOHNSON, SR., jointly and severally, Defendants-Appellees.

L.C.73 C7432CK+86 21207CZ

"In this cause plaintiff-appellant has filed a motion for stay of proceedings, and a supplement to the motion, and second, third, fourth and fifth supplements to the motion, and no answer in opposition there being filed, and due consideration thereof having been had by the Court;

IT IS ORDERED that the motion for stay be, and the same is hereby DENIED."

11/18/87

AT A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN Daniel F.Walsh, P.J.

DONALD EDGAR JOHNSON, Plaintiff-Appellant,

V. ENTERED 11/18/87

No. 92822

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., and the Estate of CARL A. JOHNSON, SR., jointly and severally, Defendants-Appellees.

L.C.73 C7432CK+86 21207CZ

"In this cause plaintiff-appellant having filed a motion for peremptory reversal pursuant to MCR 7.211(C)(4), and nothing in opposition thereto having been filed, and due consideration thereof having been had by the Court,

IT IS ORDERED that the motion for peremptory reversal be, and the same is hereby DENIED for failure to persuade the Court that reversible error is so manifest that an immediate reversal of the judgment appealed from should be granted without formal argument or submission."

1/11/88

AT A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN Daniel F.Walsh, P.J.

DONALD EDGAR JOHNSON, Plaintiff-Appellant,

V. ENTERED 11/18/87

No. 92822

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., and the Estate of CARL A. JOHNSON, SR., jointly and severally,
Defendants-Appellees.

L.C.73 C7432CK+86 21207CZ

"In this cause a motion for miscellaneous relief is filed by plaintiff-appellant, and no answer in opposition thereto having been filed, and due consideration thereof having been had by the Court,

IT IS ORDERED that the motion be, and the same hereby DENIED."

3/3/88 State Court Of Appeals Without Reviewing Plaintiff's Evidence Affirmed Judge Kobza's Granting Deft Culver And Deft O'Toole Law Firm Partnerships' Motions For Summary Disposition Of Consolidated Cases Nos. 73-C7432-CK And 86-21207-CZ, LIED That Plaintiff Failed To Cite Any Authority In Support Of His Request For An Order Directing County Trial Court To Deliver 1974 Trial Exhibits To Court Of Appeals:

COURT OF APPEALS - STATE OF MICHIGAN
DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. 92822 FILED 3/3/88
RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., and The ESTATE OF CARL A. JOHNSO, SR., jointly and severally, Defendants-Appellees.

L.C.73 C7432CK+86 21207CZ

"PER CURIAM: Plaintiff-appeals as of right from a June 20, 1986 order granting defendants' motion for summary disposition pursuant to MCR 116(C)(8) and dismissing plaintiff's complaint. Initially we note that although defendants brought their motion for summary disposition pursuant to MCR 2.116(C)(8), failure to state a claim upon which relief may be granted, a review of the trial judge's decision reveals that he looked beyond the pleadings in deciding defendants' motion. Therefore, we will construe the order granting summary disposition as one granted pursuant to MCR 2.116(C)(10), no genuine issue of material

fact. Huff v Ford Motor Co. 127 Mich App 287, 338 NW2d 387 (1983).

A motion for summary disposition premised upon MCR 2.116(C)(10), no genuine issue as to any material fact, requires the trial court to review he entire record to determine whether the nonmoving party has discovered facts to support the claim or defense. In reviewing the evidentiary record, the trial court must give the benefit of any reasonable doubt to the nonmoving party. Before judgment may be granted, the court must be satisfied that it is impossible for the claim asserted to be supported by the evidence at trial. Huff. supra.

A review of the record in the instant case convinces us that the trial court properly granted defendants' motion for summary disposition. Plaintiff's alleged 'independent action' alleging fraud on the court was nothing more than a laundry list of findings of fact made at the conclusion of a 1974 trial on plaintiff's original complaint against defendants. These findings were made at the conclusion of the 1974 trial and at the conclusion of the numerous subsequent post-judgment motion hearings. The trial court has had several opportunities to review plaintiff's claims in one form or another over the 14 years this plaintiff has kept the instant actions alive. Every decision made by the trial court has been appealed to this Court. Some of these decisions were appealed to the U.S. Supreme Court. We believe the trial judge correctly determined that this claim 'has been litigated to death.' Summary disposition was proper.

Plaintiff also seeks an order directing the lower court to deliver to this Court the 1974 trial exhibits. However, plaintiff's failure to cite any authority in support of his request precludes appellate review of the same. Tringali v. Lal, 164 Mich App 299; 416 NW2d 117 (1987). Moreover, because summary disposition was proper,

this issue has become moot.

Affirmed."

4/25/88 State Probate Court Dismissed Don's $500,000+ 1986 Priority Claim, As If It Was A $1,500,000 Claim, Against Deft Carl-Sr's $450,000 Undervalued Estate Represented By "FMB Lumberman's" Bank's (Not Deceased Carl A. Johnson, Sr-Chosen "LUMBERMAN'S Bank's) Personal Representative Respondent Atty O'TOOLE Firms Who Represented Both The Joint Venture Buyers-Disguised-As-Moneylenders And Sellers Of The Public Nightclub Overvalued Liquor Licenses:

"STATE OF MICHIGAN - IN THE PROBATE COURT FOR THE COUNTY OF MUSKEGON ****** In the Matter of the Estate of CARL A. JOHNSON, SR., Deceased File No. 86-59607-SE

"ORDER ALLOWING SECOND ANNUAL AND THIRD AND FINAL ACCOUNTS OF PERSONAL REPRESENTATIVE, DISMISSING CLAIM, ALLOWING FEES OF FIDUCIARY AND OF ATTORNEYS, PAYMENT OF PARIIAL DISTRIBUTION, DISCHARGING SURETY BOND, ASSIGNING RESIDUE AND CLOSING OF ESTATE

At a session of said Court held in the Counmty Building in the City and County of Muskegon, State of Michigan, on the 25th day of April, 1988.

PRESENT: HONORABLE TOM H. LINCK, NEIL G. MULLALLY, Judge of Probate JUDGE.

This day having been appointed for hearing the petition of FMB-Lumberman's Bank, Personal Representative of said estate, requesting (1) the allowance of its Second Annual and Third and Final Accounts covering the period from February 1, 1967 through March 7, 1988, (2) the dismissal of the claim of Donald E. Johnson, (3) payment of partial distribution to Donald E. Johnson, (4) the allowance of the fees of said Personal Representative and of its Attorneys, O'Toole, Johnson, Potter, Rolf, Grafton & Eklund, (5) cancellation of the bond heretoforefiled, (6) assignment of residue and (7) closing of estate; and due notice of the hearing on said accounts and petition

having been given as directed by said Court, the said petitioner appeared by their attorney, Thomas J. O'Toole, of O'Toole, Johnson, Potter, Rolf, Grafton & Eklund, and the Court being fully advised in the premises.

It appearing to the Court after due examination of said accounts and petition that said accounts are correct and ought to be allowed.

It further appearing to the Court that said deceased died on the 14th day of January, 1986, that the expenses of administrtion (except for final attorney fees, additional Court costs, recording fees, any fiduciary income tax liability, any additional Michigan Inheritance Taxes and any miscellaneous closing costs) and all claims allowed against said estate, except for the claim filed against said estate by Donald E. Johnson, have been paid.

It further appearing to the Court that partial distribution of the total sum of $300,000.00 was previously made to the residuary legatees (except for the distributive share of $30,000 to Donald E. Johnson) pursuant to Order Allowing Partial Distribution entered with the Court on June 2, 1987.

It further appearing to the Court that pursuant to said Order Allowing Partial Distribution dated June 2, 1987, Carl A. Johnson, Jr., Richard G. Johnson, Calvin B. Johnson, Randy Johnson and Darlyn Jo Johnson, filed Surety Bond indemnifying the Personal Representative against future claims for debts, allowances, expenses, inheritance and estate taxes or part thereof.

It further appearing to the Court that the claim filed against said estate by Donald E. Johnson, has been disposed of by Summary Judgment by Opinion of the State of Michigan Court of Appeals, No. 92822 dated March 3, 1988.

It further appearing to the Court that the proceedings required by law for the

proper administration and settlement of said estate have been taken, and that there remains to be assigned to the residuary legatees named in Paragraph III of the Codicil to Will of said deceased, a residue of the personal estate of the value of Forty Thousand Nine Hundred Fifty-Seven and 46/100 ($40,957.46) Dollars, less payment of the sum of $30,000 to Donald E. Johnson representing partial distribution of 10% of $300,000 previously reserved pursuant to Order entered with the Court on June 2, 1987, for a total residue of $10,957.46, less the payment of final attorney fees, additional court costs, recording fees, any fiduciary income tax liability, any additional Michigan Inheritance Taxes and less any miscellaneous closing costs, and no real estate.

IT IS ORDERED that the Second Annual and Third and Final Accountings of said Personal Representative, covering the period from February 1, 1987 through March 7, 1988, be and the same is hereby allowed.

IT IS ORDERED that the claim filed against said estate by Donald E. Johnson, in the total sum of $1,500,000.00, is hereby dismissed with prejudice pursuant to Summary Judgment by Opinion of the State of Michigan Court of Appeals, No. 92822 dated March 3, 1988.

IT IS ORDER that the fees of FMB-Lumberman's Bank, in the total sum of $7,235.50, for services rendered during the period covering said accounts, be and the same is hereby allowed.

IT IS ORDERED that the attorney fees requested by O'Toole, Johnson, Potter, Rolf, Grafton & Eklund, in the total sum of $6,599.86, for services rendered, be and the same is hereby allowed.

IT IS ORDERED that the sum of $30,000.00 be paid to Donald E. Johnson, representing his distributive share of the partial distribution of $300,000.00.

IT IS ORDERED that the Surety Bond of

Carl A. Johnson, Jr., Richard G. Johnson, Calvin B. Johnson, Randy Johnson and Darlyn Montoya, as Principals and Carl A. Johnson, Jr. and Richard G. Johnson as Sureties, to the Honorable Tom H. Linck, Probate Judge, as Obligee, be cancelled.

IT IS ORDERED that the residue of said estate of which said deceased died seized, less the payment of final Attorney fees, additional Court costs, recording fees, any Fiduciary income tax liability, any additional Michigan Inheritance Taxes, and less any miscellaneous closing costs, is assigned and distributed to the following residuary legatees, according o law and the Last Will and Testament of said deceased, to each the following part of proportion there, to-wit:

Carl Johnson, Jr.	20% thereof	$ 2,191.49
Calvin B. Johnson	40% thereof	4,382.98
Richard G. Johnson	20% thereof	2,191.49
Donald E. Johnson	10% thereof	1,095.76
Randy Johnson	5% thereof	547.87
Darlyn Jo Johnson	5% thereof	547.87
	*Total	

$10.957.46 *less costs as hereinabove stated

IT IS FURTHER ORDERED that upon filing proper vouchers and receipts showing the distribution of the residue of said estate in accordance with this Order, that said Personal Representative be discharged, its acceptance of trust be cancelled, its letter of authority heretofore granted be revoked and annulled and said estate be closed.

s/TOM H. LINCK, Judge of Probate"

2/2/89

MICHIGAN SUPREME COURT - Order

Entered 2/2/89

DONALD EDGAR JOHNSON,
Plaintiff-Appellant — SC: 83419

V. — COA: 92822

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON,JR., and THE ESTATE OF CARL A. JOHNSON, SR., — LC 86-59607-SE

Defendants-Appellees.

"On order of the Court,the delayed

application for leave to appeal is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court."

3/29/89

MICHIGAN SUPREME COURT - Order

Entered 3/29/89

DONALD EDGAR JOHNSON,
Plaintiff-Appellant — SC: 83419
V. — COA: 92822
RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON,JR., and THE ESTATE OF CARL A. JOHNSON, SR., — LC: 86-59607-SE
Defendants-Appellees.

"On order of the Court,the motion for reconsideration of this Court's order of February 2, 1989 is considered, and it is DENIED, because it does not appear that the order was entered erroneously."

4/14/89 THIS ORDER SUMMARIZES THE ABOVE 2/2/89 and 3/9/89 ORDERS WHICH REFUSE TO REMEDY Petitioner Don'S CONSTITUTIONAL CLAIMS IN 1986-COMBINED 73-C7432 CK AND 86-21207 CZ:

MICHIGAN SUPREME COURT - Order

Entered 4/14/89

DONALD EDGAR JOHNSON,
Plaintiff-Appellant — SC: 83419
V. — COA: 92822
RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON,JR., and THE ESTATE OF CARL A. JOHNSON, SR.,
Defendants-Appellees.

"On order of the Court, the orders of February 2, 1989 and March 29, 1989 are hereby amended to correct a clerical error by correcting the notation of the lower court docket number to read as follows: "LC: 86 021207-CZ".

6/5/89 Deft Judge Danhof Denied Appeal Of Right Of 4/25/88 Denial Of Estate Claim:

"STATE OF MICHIGAN - COURT OF APPEALS - 108452 — FILED 6/5/89

ROBERT J.DANHOF, Chief Judge

RE ESTATE OF CARL A. JOHNSON, SR.

L.C. 86 509607 SE

"The Court orders that the motion to remand is DENIED for failure to persuade the Court of the necessity of a remand at this time."

7/2/89

STATE OF MICHIGAN - COURT OF APPEALS

In the Matter of the Estate of CARL A. JOHNSON, SR., Deceased. JUL 07 1989

DONALD EDGAR JOHNSON, Claimant-Appellant,

V.

No. 108452

FMB LUMBERMAN'S BANK, Personal Representative of the Estate of Carl A. Johnson, Sr., Deceased, RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., RANDY JOHNSON, and DARLYN JO MONTOYA,

Petitioners-Appellees.

Before: Danhof, C.J., and Wahls and Griffin, JJ. L.C. 86 509607 SE

"PER CURIAM:.

Claimant Donald Johnson appeals as of right from an April 25, 1988, Muskegon Probate Court order allowing the second annual and third and final annual accounts of the personal representative of the estate of Carl A. Johnson, Sr., dismissing claimant's claim against the estate, allowing fees of fiduciary and of attorneys, allowing payment of partial distribution, discharging a surety bond, assigning the residue and closing the estate. We affirm.

Claimant contends that because evidence was presented that his claim was based on another suit which was pending on appeal, the estate'counsel committed frauds upon the probate court by stating that his claim should be dismissed based on res judicata. Claimant further contends that the lower court erred in dismissing his claim. This Court addressed the other suit in Johnson v Johnson, unpublished opinion per curiam of the Court of Appeals, decided March 3, 1988, (Docker No. 92822), lv den 432 Mich 858 (1989), reconsideration denied 432 Mich 858 (1989).

This Court stated:

A review of the record in the instant case convinces us that the trial court properly granted defendants' motion for summary disposition. Plaintiff's alleged "independent action" alleging fraud on the court was nothing more than a laundry list of findins of fact made at the conclusion of a 1974 trial on plaintiff's original complaint against defendants. These findings were made at the conclusion of the 1974 trial and at the conclusion of the numerous subsequent post- judgment motion hearings. The trial court has had several opportunities to review plaintiff's claims in one form or another over the fourteen years this plaintiff has kept the instant action alive. Every decision made by the trial court has been appealed to this Court. Every decision of this Court has been appealed to our Supreme Court. Some of these decisions were appealed to the United States Supreme Court. We believe the trial judge correctly determined that this claim "has be litigated to death." sumary disposition was proper.

The res judicata doctrine provide that, where two parties have fully litigated a particular claim and a final judgment has resulted, the claim may not be relitigated by either party. Van Deventer v Michigan National Bank, 172 Mich App 456, 463; __ NW2d __ (1988); DeCare v American Fidelity Fire Ins. Co. 139 Mich App 69,77; 360 NW2d 872 (1984), lv den 422 Mich 933 (1985). There are three prerequisites to the application of the res judicata doctrine: (1) there must have been a prior decision on the merits; (2) the issues must have been resolved in the first action, either because they were actually litigated or because they might have been presented in the first action, and (3) both actions must be between the same parties or their privies. Sloan v Madison Heights, 625 Mich 288,295; 389 NW2d 418 (1986); Decare, supra, p 77.

Michigan courts apply the res judicata

doctrine boadly so as to bar claims that were actually litigated as well as claims arising out of the same transaction which a plaintiff could have brought, but did not. Gose v Monroe Auto Equipment Co., 409 Mich 147,160; 294 NW2d 165 (1980); Michigan Oil Co. v. Dep't of Natural Resources, 148 Mich App 745,753; 384 NW2d 77 (1985).

The record demonstrates that the estate's counsel did not commit a fraud on the lower court. The court dismissed claimant's claim on the basis of res judicata after finding that claimant had not presented anything other than his claims which had previously been litigated. The lower court did not err in dismissing claimant's claim.

Claimant contends that the estate's counsel was unqualified and the the lower court erred in ruling that claimant could not move to disqualify the estate's counsel. The lower court did not allow claimant to argue about the disqualification of the estate's counsel because he had previously litigated this matter. Res judicata barred claimant from relitigating his claim that the estate's counsel should be disqualified. The lower court did not err.

Claimant's final contention is that he is entitled to accrued interest on his share of the estate from the date of partial distribution. The lower court did not address this matter. Therefore, we decline to review it. Providence Hospital v National Labor Union Health & Welfare Fund, 162 Mich App 191,194; 412 NW2d 690 (1987).

Affirmed. s/Robert J. Danhof, Myron H. Wahls, Richard Allen Griffin."

7/31/89 Michigan Supreme Court Affirmed "Danhoff" Infirm Decisions Regarding 1986-Consolidated 73 C7432 CK And 86-21207 CZ:

MICHIGAN SUPREME COURT — Order Entered 7/31/89

DONALD EDGAR JOHNSON,
Plaintiff-Appellant, — SC: 83419
v. — COA: 92822

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., and THE ESTATE OF CARL A. JOHNSON, SR., Defendants-Appellees. L.C.86-21207-CZ

"On order of the Court, the motion for stay of this Court's order of March 29, 1989 is considered, and it is DENIED."

11/29/89

SUPREME COURT OF MICHIGAN - Order 11/29/89

In re Estate of CARL A. JOHNSON, SR., Deceased

DONALD EDGAR JOHNSON, Claimant-Appellant, SC: 87252 COA: 108452

v. L.C.86-59607-SE

FMB LUMBERMAN'S BANK, Personal Representative of the Estate of Carl A. Johnson, Sr., Deceased, RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., RANDY VAN JOHNSON, and DARLYNN JO JOHNSON, Petitioners-Appellees.

"On order of the Court, the application for leave to appeal is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court."

12/2/89 U.S. Supreme Court No. 88-2116 DENIED Certiorari To Michigan Appellate Courts Regarding County Circuit Court 73-C7432-CK Consolidated With 86-21207-CZ.

APPENDIX C: 1970-99 DENIED REHEARINGS.

3/19/75

State Of Michigan-Court of Appeals 22496

DONALD EDGAR JOHNSON, Plaintiff-Appellant,

V

CARL ALFRED JOHNSON SR, et al, Defendants-Appellees. L.C.73 C7432CK

"...application for rehearing of * * * previous order denying the furnishing of a transcript to the plaintiff having been filed by plaintiff, and nothing having been filed in opposition thereto * * * DENIED for lack of merit in the grounds presented."

2/5/76

"STATE OF MICHIGAN - COURT OF APPEALS
AT A SESSION OF GTHE COURT OF APPEALS
OF THE STATE OF MICHIGAN * * * 2/5/76
DONALD EDGAR JOHNSON,
Plaintiff-Appellant,
v. Donald E. Holbrook, Jr., P.J.
CARL ALFRED JOHNSON SR.,
RICHARD GORDON JOHNSON, and
CARL A. JOHNSON, JR.,
Jointly and severally, Docket #22496
Defendants-Appellees L.C. No. 73-C7432 CK

In this cause this Court having issued an order on September 24, 1975 denying the defendants-appellees' motion to dismiss and the defendants-appellees having filed a motion for reconsideration of this Court's order denying the motion to dismiss, and various motion for leave to use proposed capsule statment of proceedings having been filed by the plaintiff-appellant, and due consideration thereof having been had by the Court,

IT IS ORDERED that the motion for reconsideration be, and the same is hereby GRANTED,

IT IS FURTHER ORDERED that this appeal be, and the same is hereby DISMISSED without prejudice to the filing of an application for delayed appeal pursuant to GCR 806.4 after the full transcripts of the proceedings have been filed in the trial court.

IT IS FURTHER ORDERED that the various motions for leave to use various proposed capsule statements of proceedings filed by the plaintiff-appellant be, and the same are hereby DENIED." (Emphasis added).

2/25/76

AT A SESSION OF THE SUPREME COURT OF THE
STATE OF MICHIGAN 56870
DONALD EDGAR JOHNSON,
Plaintiff Appellant, COA: 22496
v LC: 74-7432
CARL ALFRED JOHNSON, SR., et al,
Defendants-Appellees.

"On order of the Court, the motion in

pro per by plaintiff-appellant for reconsideration of this Court's order of July 2, 1975, is considered and the same is hereby DENIED, because it does not appear that said order was entered erroneously."

8/4/76

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN 56870

DONALD EDGAR JOHNSON,
Plaintiff Appellant, COA: 22496

v LC: 74-7432

CARL ALFRED JOHNSON, SR., et al,
Defendants-Appellees.

"On order of the Court, the ex parte motion by plaintiff-appellant, in pro per, for reconsideration of motions, is considered and the same is hereby DENIED, as it is not appropriate under the General Court Rules."

8/18/76

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN 58097

DONALD EDGAR JOHNSON,
Plaintiff Appellant, COA: 22496

v LC: 73-C-7432

CARL ALFRED JOHNSON, SR., et al,
Defendants-Appellees.

On order of the Court, the motion in pro perby plaintiff-appellant for recondsideration of this Court's order of May 26, 1976, is considered and the same is hereby DENIED, because it does not appear that said order was entered erroneously.

Plaintiff-appellant's motion to add certain defendantsl-appellees, and his motion for appointment of counsel, are also considered, and the same are hereby DENIED."

7/21/77

U.S. COURT OF APPEALS FOR SIXTH CIRCUIT
FILED JUL 21 1977 No. 77-1346

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,

v. L.C. No. 73-C7432 CK

CARL ALFRED JOHNSON SR., ET AL.,
Defendants-Appellees O R D E R

"Upon consideration of the appellant's

motion for accelerated determination, correction of the record and to proceed on the original record with filing an appendix,

IT IS ORDERED that the motion be and it hereby is denied.

Appellant's motion for leave to make minor corrections to his brief is granted."

9/12/77

State Of Michigan-Court of Appeals 22496

DONALD EDGAR JOHNSON, Plaintiff-Appellant,

v. L.C. No. 73-C7432 CK

CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALFRED JOHNSON, JR., jointly and severally, Defendants-Appellees.

"In this cause, a motion for reconsideration of this Court's order of August 17, 1977, is filed by plaintiff-appellant, and no answer in opposition thereto having been filed, and due consideration thereof having been had by the Court, IT IS ORDERED tha the motion for reconsideration be, and the same is hereby DENIED. Judge Michael D. O'Hara not participating."

12/18/78

State Of Michigan-Court of Appeals 22496

"Robert J. Danhof, C.J., Presiding Judge

DONALD EDGAR JOHNSON, Plaintiff-Appellant,

v. L.C. No. 73-7432 CK

CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALFRED JOHNSON, JR., jointly and severally, Defendants-Appellees.

In this cause an application for rehearing of order of November 14, 1978 has been filed by the plaintiff-appellant and no answer in opposition thereto having been filed, and due consideration thereof being had by the Court,

IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED."

1/18/79

State Of Michigan-Court of Appeals 22496

"Robert J. Danhof, C.J., Presiding Judge

DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. L.C. No. 73-C7432 CK
CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALFRED JOHNSON, JR., jointly and severally, Defendants-Appellees.

"In this cause, a second application for rehearing of the (11/15/78) denial of disqualification of defendants-appellees' law firm) * * * IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED for lack of merit in the grounds presented."

12/4/79

State Of Michigan-Court of Appeals 45093
Robert J. Danhof, C.J., Presiding Judge
DONALD EDGAR JOHNSON,
Plaintiff-Appellant, L.C. No. 73-C7432 CK
v.
CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALFRED JOHNSON, JR., jointly and severally,
Defendants-Appellees.

"In this cause an application for rehearing has been filed by the plaintiff-appellant and no answer in opposition thereto having been filed, and due consideration thereof being had by the Court. IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED."

1/26/83

State Of Michigan-Court of Appeals 59895
DONALD EDGAR JOHNSON, Plaintiff-Appellant, v. CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALFRED JOHNSON, JR., jointly and severally, Defendants-Appellees.
LC: 73 C7432 CK

"...[I]n this cause an application for rehearing is filed by plaintiff-appellant, and no answer to in opposition thereto having been filed, and due consideration thereof having been had by the Court, IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED."

11/29/83

State Of Michigan-Court of Appeals 50565
JOHN H. SHEPARD, Presiding Judge

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,
v.
CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALFRED JOHNSON, JR., jointly and severally,
Defendants-Appellees. LC: 73-C7432CK

"In this cause plaintiff-appellant has filed an application for rehearing of this Court's order of September 23, 1983, granting the motion for immediate consideration and denying the application for leave to appeal, and no answer to the application for rehearing having been filed, and due consideration of the foregoing having been had by the Court, IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED for the reason that more than one year having elapsed from the date of judgment, plaintiff is required to file an independent action, GCR 1963, 528.3."

4/27/84

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN 73254
DONALD EDGAR JOHNSON,
Plaintiff Appellant, COA: 50565
v LC: 73-C7432-CK
CARL ALFRED JOHNSON, SR., et al,
Defendants-Appellees.

"On order of the Court, the motion in propria persona by plaintiff-appellant for reconsideration of this Court's order of January 30,1984, is considered, and the motion is DENIED, because it does not appear that said order was entered erroneously.

Further, the Clerk is directed to refuse to accept for filing any further pleadings in this matter from the plaintif-appellant, including the filing of a motion for reconsideration of this order, GCR 1963, 861.5."

10/31/84 NO JUDGE'S NAME SHOWN

State Of Michigan-Court of Appeals 78170
DONALD EDGAR JOHNSON,
Plaintiff-Appellant,
v.

CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALFRED JOHNSON, JR., jointly and severally,

Defendants-Appellees.

"In this cause, an application for rehearing of this Court's order of September 20, 1984, denying an application for leave to appeal having been filed by plaintiff-appellant, and no answer in oposition thereto having been filed, and due consideration thereof having been had by the Court;

IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED for lack of merit in the gounds presented.

IT IS FURTHER ORDERED that the Clerk is directed to refuse to accept for filing any furthe pleadings in this matter fom plaintiffappellant, including a filing of an application for rehearing of this order. GCR 1963, 816.5."

6/25/85

AT A SESSIN OF THE SUPREME COURT OF THE STATE OF MICHIGAN

DONALD EDGAR JOHNSON, SC: 75403

Plaintiff-Appellant, COA: 78170

v. LC: 73-C7432-CK

CARL ALFRED JOHNSON, SR., et al,

Defendants-Appellees.

"On order of the Court, the motion for reconsideration of this Court's order of March 28, 1985 is considered, and it is DENIED, because it does not appear that the order was entered erroneously."

3/18/86 NO JUDGE'S NAME SHOWN!

"State Of Michigan-Court of Appeals 88008

DONALD EDGAR JOHNSON,

Plaintiff,

v

MUSKEGON CIRCUIT JUDGE, CARL ALFRED JOHNSON, RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., LANDMAN LATIMER CLINK & ROBB, Law Firm Partnership and WILLIAM F. McNALLY,

Defendants.

L.C.73 C7432CK+86 21207CZ

In this cause a motion for rehearing is

filed by defendant-appellant, and no answer inopposition thereto having been filed, and due consideration thereof having been had by the Court, IT IS ORDERED that the motion for rehearing be, and the same is hereby DENIED.

Judge Shepherd would grant."

4/28/87 NO JUDGE'S NAME SHOWN!

"IN THE MICHIGAN COURT OF APPEALS

ORDER April 28, 1987

Re: Donald Edgar Johnson

v. Docket No. 92822,

Richard Gordon Johnson,

L.C.73 C7432CK+86 21207CZ

"Robert J. Danhof, Chief Judge acting pursuant to MCR 7.211(E)(2), hereby orders: the motion for immediate consideration is DENIED."

7/21/87

IN THE MICHIGAN COURT OF APPEALS ORDER

April 28, 1987

Re: Donald Edgar Johnson,

Plaintiff-Appellant,

v. Docket No. 92822

Richard Gordon Johnson, CARL ALFRED JOHNSON, JR., and the ESTATE OF CARL A. JOHNSON, SR., jointly and severally,

Defendants-Appellees.

L.C.73 C7432CK+86 21207CZ

"In this cause plaintiff-appellant has filed a motion for rehearing, and now answer in opposition thereto being filed, and due consideration thereof having been had by the Court;

IT IS ORDERED tht the motion be, and the same is hereby DENIED."

5/6/88

IN THE MICHIGAN COURT OF APPEALS ORDER

April 28, 1987

Re: Donald Edgar Johnson,

Plaintiff-Appellant,

v. Docket No. 92822

Richard Gordon Johnson, CARL ALFRED JOHNSON, JR., and the ESTATE OF CARL A. JOHNSON,SR., jointly and severally,

Defendants-Appellees.

"This Court orders that the motion for rehearing is denied."

9/8/89 Wrong Lower Court Numbers. Should Be "L.C. #86 509607 SE":

Court of Appeals - State of Michigan 108452
Robert J. Danhof, C.J., Presiding Judge

In The Matter Of Estate Of Carl A. Johnson, Sr. L.C. # 73-C7432 CK, 86-21207 CZ

The Court orders that the motion for rehearing is DENIED." s/ROBERT J. DANHOF

10/13/89

Court of Appeals - State of Michigan 108452
Robert J. Danhof, C.J., Presiding Judge

In The Matter Of Estate Of Carl A. Johnson, Sr. L.C. # 73-C7432 CK, 86-21207 CZ

The motion to correct the order of September 8, 1989 is GRANTED, and the lower court number on that order is corrected to 86-59607-SE. In all other respects, the motion is denied."

9/27/91 6th Cir. Court Of Appeals 91-1160, Including Judge NORRIS Who Was On 97-1944 Panel Of 2/10/98 Judgment Herein For Review, Denied Rehearing En Banc:

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT 91-1160

DONALD EDGR JOHNSON FILED 9/27/91

Plaintiff-Appellant, LEONARD GREEN, Clerk

v

RICHARD GORDON JOHNSON, ET AL., ORDER

Defendants-Appellees

BEFORE: KEITH and NORRIS, Circuit Judges; and Weber, U.S. District Judge

"The court having received a petition for rehearing en banc, and the petition having been circulated not only to the original panel members but also to all other active judges of this court, and no judge of this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original hearing panel.

The panel has further reviewed the petition for rehearing and cncludes that the issues raised in the etition were fully considered

upon the original submission and decision of the case. Accordingsly, the petition is denied. ENTERED BY ORDER OF THE COURT
s/LEONARD GREEN, Clerk

*Hon. Herman J. Weber sitting by designation from the Southern District of Ohio."

3/10/93 6th Cir. Court Of Appeals 92-1829 Denied Rehearing Of 12/23/92 Decision While Stating, "Judge Engel Recused Himself When This Case Was Originally Heard December 11, 1992":

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
DONALD EDGAR JOHNSON AND CLASS OF
PRO SE NONLAWYER ALLEGED CONFIDENCE
GAME VICTIMS,
Plaintiff-Appellant, 92-1829
V. Filed Mar 10 1993
RICHARD GORDON JOHNSON, et al,
DefendantsAppellees O R D E R
BEFORE: KENNEDY and BATCHEDLER, Circuit Judges, and BROWN, Senior Circuit Judge

"The appellant has petitioned the court to rehear its decision of December 23, 1992, affirming the orders of the district court denying appellant relief sought pursuant to Fed. R. Civ. P. 60(b). Susequent to the filing of the petition for rehearing, appellant filed a petition for rehearing en banc, a motion to recuse Judge Engel, and a motion to amend the caption.

After careful consideration of the petition for rehearing, the panel concludes that it has not overlooked or misapprehended any point of law or fact in the order of December 23, 1992. It is therefore ordered that the petition for rehearing is denied.

Judge Engel recused himself when this case was originally heard December 11, 1992. Therefore, the motion to recuse is denied as moot. The petition for rehearing en banc is denied on the ground that appellant did not file the required number of copies of the petition. 6th Cir. R. 14. The motion to amend the caption is denied."

7/9/93 1964-65 Perpetrator Who Became 6th Circuit Court Of Appeals Judge

INTERVENED ON THE DECISION-MAKING ORIGINAL PANEL As Shown By Re-Denial Of Rehearing:

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
92-1829 Filed Jul 9 1993

DONALD EDGAR JOHNSON AND Class of Pro SE Nonlawyer Alleged Confidence Game Victims,
Plaintiff-Appellant,

V. O R D E R

RICHARD G. JOHNSON, et al,
Defendants-Appellees

BEFORE: KENNEDY and BATCHELDER, Circuit Judges, and BROWN, Senior Circuit Judge.

"The court having recived a petition for rehearing en banc, and the peititon haveing been circulated not only to the original panel members but also to all other active jduges of this court, and no judge of this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has [n] been referred to the original hearing panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

[n] The original panel included Judge Engel."

8/31/93:

"THE GROUNDS FOR THIS MICHIGAN SUPREME COURT'S GRANTING THIS APPLICATION FOR LEAVE TO APPEAL THE LOWER COURTS' DECISIONS TO ALLOW THE PERPETRATORS AND PERPETUATORS OF A VICIOUS CONSPIRACY TO TAKE CLAIMANT'S TOTAL 1922-1973-ACQUIRED PRIVATE PROPERTIES FOR PRIVATE AND PUBLIC USE WITHOUT JUST COMPENSATION THEN 1973-93 INTERFERE WITH CLAIMANT'S AND A CLASS OF CLAIMANTS' BASIC CIVIL RIGHTS OF DUE PROCESS AND EQUAL PROTECTION OF LAWS (FOR LAWYERS AND NONLAWYERS) **IS CLEARLY ERRONEOUS AND WILL CAUSE MATERIAL INJUSTICE...**"
Don's 8/31/93 Denied Application For Leave To Appeal To Michigan

4/29/94 Mich. Supreme Court Case No. 97521 Denied Rehearing Of 2/25/94 Denial Of Leave To Appeal Probate Court's Dismissal Of Don's Claim And Closing The Estate:

"ORDER

Michigan Supreme Court
Lansing, Michigan

Entered April 29, 1994

97521 (43)

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,

v.

SC: 97521

ESTATE OF CARL A. JOHNSON SR.,
Defendant-Appellee.

COA: 158359

LC: 92-29070 AV

"On order of the Court, the motion for reconsideration of this Court's order of February 25, 1994, is considered, and it is DENIED, because it does not appear that the order was entered erroneously."

11/28/94 U.S. Supreme Court 94-146 Denied Rehearing Of 10/3/94 Denial Of Petition For Mandamus To Michigan Supreme Court 97521 Allegedly Because Issue Of District Judge Gibson's Disqualification Was Unresolved:

6/6/95 6th Cir. Court Of Appeals 94-2305 Denies Reconsideration Except For Correction From 12/12/90 To 12/19/90 Date:

No. 94-2305

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

Filed JUN 06 1995

DONALD EDGAR JOHNSON, Plaintiff-Appellant,
v. RICHARD GORDON JOHNSON, et al, Defendants-Appellees.

O R D E R

Before: MARTIN and RYAN, * Circuit Judges, and GILMORE, District Judge.

"The plaintiff moves for reconsideration of an order which denied his motion for a stay of the district court's judgment. Upon consideration, we note the original order incorrectly stated that the judgment which the plaintiff sought to stay was entered on December 12, 1990, when in fact it was entered on December 19, 1990. In

all other respects, however, the motion to reconsider is DENIED.

ENTERED BY ORDER OF THE COURT
s/Leonard Green/??, Clerk

* The Honorable Horace W. Gilmore, United States District Judge for the Eastern District of Michigan, sitting by designation."

8/25/95 6th Cir. Court Of Appeals 94-2305 Denied Rehearing Of 6/27/95 Denial Of FRCVP 60(b)(6) Relief:

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
No. 94-2305 FILED AUG 25 1995

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,

v.

RICHARD GORDON JOHNSON; CARL ALFRED JOHNSON, JR.; ESTATE OF CARL A. JJOHNSON SR.; LAW FIRM PARTNERSHIPS OF LANDMAN, LATIMER, CLINK AND ROBB; CULVER, LAGUE AND MCNALLY; O'TOOLE, STEVENS, JOHNSON, KNOWLTON & ROLF; O'TOOLE, JOHHON POTTER, ROLF GRAFTON& EKLUND, P.C.; STATE OF MICHIGAN; ROBERT J. DANHOF, Michigan Court of Appeals Chief Judge, jointly and severally,
Defendants-Appellees.

"Upon consideration of the petition for rehearing filed by the appellant, IT IS ORDERED that the petition for rehearing be, and it hereby is, DENIED."

6/12/97 6th Cir. Court Of Appeals 96-1826/1979 Denied Petition For Rehearing En Banc:

Nos. 96-1826/1979
U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
FILED JUN 12 1997

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,

v. ORDER

RICHARD GORDON JOHNSON, ET AL.,
Defendants-Appellees.

The court having received a petition for rehearing en banc, and the petition having been circulated not only to the original panel members but also to all other active judges of this court, and no judge of this

court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were full considered upon the original submission and decision of the case. Accordingly, the petition is denied."

4/23/98 6th Cir. Court of Appeals 97-1944 Denied Rehearing Of 2/10/98 Dismissal Of Appeal Of District Judge Gibson's ,Scheduling A Contempt Hearing Rather Than A First Time Hearing To Review Plaintiff's Constitutional Claims And Determine If There Should Be A Three Judge Court:

"Nos. 97-1944,97-1955 & 97-2062

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

FILED APR 23 1998

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,

v. O R D E R

RICHARD GORDON JOHNSON, ET AL.,
DefendantsAppellees.

Before MARTIN, Chief Judge, NORRIS AND CLAY

"Plaintiff-appellant has filed a petition for rehearing and supplement to the petition seeking reconsideration of this court's order of February 10, 1998 dismissing the appeals

for lack of jurisdiction.

Upon careful consideration, this panel concludes that it did not misapprehend or overlook any point of law or fact when it issued its order. Fed. R. App. P. 40(a).

The petition for rehearing is denied."

12/23/98 "98-2190

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

IN RE: DONALD EDGAR JOHNSON, FILED DEC 231998
Petitioner. LEONARD GREEN, Clerk

O R D E R

BEFORE: JONES, RYAN, and BATCHELDER, Circuit

Judges.

The court having received a petition for rehearing en banc, and the petition having been circulated not only to the original panel members but also to all other active judges of this court, and no judge of this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

ENTERED BY ORDER OF THE COURT
Leonard Green/??, Clerk"

12/17/99

"UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

In re DONALD EDGAR JOHNSON — FILED
DEC 17 1999

Petitioner — LEONARD GREEN, Clerk

ORDER

Before KRUPANSKY, NORRIS, and CLAY,
Circuit Judges

The court having received a petition for rehearing en banc, and the petition having been circulated not only to the original panel members but also to all other active judges of this court, and no judge of this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

ENTERED BY ORDER OF THE COURT
s/Leonard Green, Clerk

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APPENDIX D: HOW, WHEN, AND WHERE FEDERAL QUESTIONS WERE RAISED AND PASSED ON IN STATE COURTS.

2/25/74

"THE PLAINTIFF: Your Honor, you have the cart before the horse. Wrong. First the charges, then the answer, then the trial, whereas, in fact, I am asking the Court to go the legal way, the way the law prescribes, due process, cause the defendants to answer the charges, admit or deny them, and then have the trial." * * * THE COURT: [T]hey are entitled, by the due process you are talking about, to have a complaint that states a cause of action * * * I will have Mr. Olsen come in and talk with me concerning your case." 2/25/74 County Circuit Court 73-C7432-CK Judge Schoener Hearing, p 7. (may have been censored).

12/9/74

"MR. JOHNSON: That plaintiff deserves said waiver or suspenseion, pursuant to GCR 120.3 plus affidavit filed on December 6th, 1974.

That this plaintiff does not deserve any court's joining with wrongdoers-defendants in making him the 'fall guy' from tripled socalled 'competition' working aginst a proven nightclub joint venture. * * * The plaintiff could thereby properly enter all of his proofs, present a closing argument, and rest his case. * * * [T]he court told the plaintiff that he could have no more time for the presentation of evidence. * * * The plaintiff never informed the court that he had rested his case; rather, the Court told the plaintiff that he could have no more time for the presentation of evidence. * * * That the plaintiff had no opportunity to object to the court's recitation of its Opinion at the time it was made. * * * That plaintiff believes that said Opinion should more accurately recite that the defendants moved for dismissal after the Court ruled that the plaintiff could have no more time for the

presentation of evidence and after the defendants presented all of their evidence. * * * In belief that this honorable Court is a court of law and justice,..

THE COURT: ... [A]s far as I am concerned, you rested. * * * You may not have ever used that form -- the words: 'I rest'; but * * * You have been saying it for two weeks, and I'm through!' (Whereupon **the Judge walked off the Bench**)." 12/9/74 County Circuit Judge Piercey Hearing p 4.

12/9/74

"..[T]he plaintiff having presented evidence **and rested his case** * * * IT IS ORDERED, that defendants' Motion be and hereby is granted and Judgment of No Cause of Action be entered in favor of the Defendants.." 12/9/74 Judge Piercey #73-C7432-CK Dismissal.[220]

2/25/75 Court of appeals 22496 denied waiver of cost of transcript so Don had to 1975-82 piecemeal file $5,000+ transcript from minimum AFM scale wage less than 30 hours weekly not on Don's state of the arts equipment in storage.

12/29/77

"On order of the Court, the application in propria persona for leave to appeal and the emergency motion for prompt adjudication are considered. The emergency motion is GRANTED and the application is DENIED, **because the Court is not persuaded that the question presented should be reviewed by this Court.** 12/29/77 Mich Supreme Ct #60385, COA #22496, LC #C-7432-CK.

1/26/82

"73-C7432. The Court having reviewed the pleadings and heard oral argument: IT IS ORDERED that the emergency motion in pro per by plaintiff-appellant for immediate declaratory judgment that defendants' Landman law firm's 3/8/65 invalidation of over $25,471 Federal tax liens was and continues to be a fraud/false pretense on the U.S. taxpayers, the I.R.S., the Courts, and all parties, is hereby DENIED

because this State court is without jurisdiction to declare whether said invalidation was or continues to be a tax fraud against the Federal government. s/John H. Piercey."[81]

2/11/82

"#73-C7432. The Court having reviewed the pleadings and heard oral argument, IT IS ORDERED that the emergency motion in pro per by plaintiff-appellant for a new or partially-new trial,for amending findings filed 7/31/79, and for certification that plaintiff's appeal is non-frivolous are hereby DENIED because plaintiff failed to prove that he was ever on a joint venture with defendants and this Court's 1974 decisions were correct. s/J.H. Piercey."[81]

3/31/82

"#73-C7432: The Court having reviewed pleadings and heard oral argument, IT IS ORDERED that the emergency motion in pro per by plaintiff-appellant for entry of declaratory judgments a) that plaintiff-appellant never took full custody of one dime's worth of 3 defendants-appellees' cash or properties between 8/20/64 and 7/30/70, and b) that defendants- appellees and/or their law firms took plaintiff-appellant's phono records and music publishing assets under false pretenses since 8/20/64 are hereby DENIED because it is an improper motion requiring further adjudication of the merits of this case which will not be done unless ordered by appellate court. s/John H. PIercey."[81]

5/11/82 Don was again denied hearing to settle concise statement of proceedings and facts for appeal.[82]

11/23/82 Don was denied delayed appeal of right by unknown judges for want of jurisdiction for fraud upon courts reason that Don didn't file transcripts in court of appeals,[80,82] pursuant to 2/6/76 instructions.

4/20/83:

"SUPREME COURT OF MICHIGAN No. 71091

COA 59895
LC: 73-C-7432-CK

On order of the Court, the application in propria persona for leave to appeal is considered, and it is DENIED, because the Court is not persuaded that the questions presented should be reviewed by this Court."

5/3/83 Don And Assistant Attorney's Emergency Motion For New Or Partially-New Trial:

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,
v.
CARL ALFRED JOHNSON, SR., A/K/A CARL ALFRED JOHNSON, RICHARD GORDON JOHNSON, and CARL ALFRED JOHNSON, JR., Jointly and Severally
Defendants-Appellees.

File No. 73 C7432 CK
Supreme Court 71091
Court of Appeals 59895

EMERGENCY MOTION FOR A NEW OR PARTIALLY-NEW TRIAL

Notice Of Hearing; Proof Of Service

Donald Edgar Johnson, In Pro Per
Attorney for Plaintiff-Appellant,
William F. McNally (P-17533) and
Landman Luyendyk Latimer Clink & Robb
Attorneys for Defendants-Appellees.

THIS PARTIALLY-LITIGATED 1973 CASE CONTESTS CUSTODY OF INTERSTATE KIDNAPPED MINOR CHILDREN AND ALLEGES CRIMES OF TAKING TOTAL PROPERTIES AND BASIC CONSTITUTIONAL RIGHTS UNDER FALSE PRETENSES TO COVER UP A $30,000 FEDERAL TAX EVASION. * * * 1. Irregularity in the proceedings. * * * (a) its first half hour was not recorded by stenographer Robert C. Fazio, and (b) the many hours of stipulation sessions secret from plaintiff in pro per between his assistant attorney Olsen and codefendatns' Landman law firm were not recorded * * * 2. An order of the court and the court's abuse of discretion which prevented the moving partry from having a fair trial. * * * 3. A decision against

the great weight of evidence and contrary to law. * * * 4. Material evidence,which could not with reasonable diligence have been discovered and produced at the trial. * * * 5. Errors of law occuring in the proceedgins and mistakes of fact by the Court. [I]t was a mistake of fact for Judge PIercey to rule that there never was a joint venture or joint venture contract * * * Judge Piercey failed to uphold the Constitution despite his swearing that he would as he took on the position of Circuit Judge. He denied Due Process, Equal Protection, and Just Compensation. * * * 6. On any ground warranting a new trial specified in sub-rule 528.3. * * * Judge Piercey denied a new trial and after fraud was discovered." 5/3/83 Motion For New Trial.[696]

5/4/83 Piercey replacement #1, Judge Pannucci, 5/4/83 scheduled an evidentiary hearing:[83,704]

"I am aware of a previous Judge Piercey Order denying Plaintiff an opportunity to file any pleadings. Iam setting aside this Order to allow Plaintiff his day in court. s/Ronald H. Pannucci." (Piercey replacemen #1).

5/6/83: But LANDMAN firm issued 5/6/83 fraud that full appellate process was exhausted and Pannucci had no jurisdiction.[70]

5/10/83. Don objected.[706] But the evidentiary hearing was canceled:[707]

"#73-C7432-CK: The court has reconsidered the May 4, 1983 memorandum. It is therefore ORDERED that the May 10, 1982 Order signed by Judge Piercey is re-instated. The clerk is instructed to return all pleadings and fees s/R.H. Pannucci, Chief Circuit Judge."[84]

5/20/83:

"Said Order * * * Condones 3 Men And Their Agents' Taking Substantial Government Property Plus A Man's Total Worldwide Substantial Properties, Child Custodys, And Basic Constitutional Rights * * * Under

False Pretenses". 5/20/83 Trial Court Motion To Rescind 5/10/83 Order Denying Evidentiary Hearing.

5/26/83. **Judge Piercey replacement #2 muzzled Don:**

"#73-7432 CK. Afer reading of the Petition and review of the file, it is the Order of this Court that plaintiff * * * be prohibited from filing any additional or further pleadings in this matter to prevent the efficient administration of justice, and all such further filings shall not in the regular due procedure of fling for an Appeal from previous Orders and judments entered in this case be followed. Any violation of this Order shall subject the Plaintiff-Appellant to contempt of this Court. This Order shall become effective immediately upon entry with the Clerk. s/Michael E. Kobza, Circui t Judge."[84]

5/20/83 Don's rebuttal.

"Said Order * * * condones 3 men and their agents' taking substantial government property plus a man's total worldwide substantial properties, child custody, and **basic Constitutional Rights** * * * under false pretenses."[708] 5/28/83 Motion To Rescind 5/10/83 Order.

6/23/83 Mich. Supreme Ct #71091, COA 59895, LC: 73-C-7432-CK:

"...[R]econsideration is DENIED, because it does not appear to the Court that the order of April 20, 1983 was entered erroneously."[84]

6/29/83 **Judge Kobza ordered Don To Remove His Evidence:**

"73-7432-CK. This Court is advised certain exhibits are currently on file with the Muskegon County Clerk's office, Court Records Dept., in the abve determined matter, and that it is the opinion of the Court said cause was appealed and the Michigan Supreme Court has denied leave to appeal further, the time for filing any motion for reconsideration long since passed; IT IS HEREBY ORDERED all exhibits in the possession

of the Court Records be picked up by the Plaintiff, Donald Edgar Johnson, by Friday, July 1, 1983, 12:00 o'clock noon; and he is to sign a prepared receipt therefor, or this Court will order them removed and/or destroyed in accordance with the General Court Rule so providing. This Order is to take effect immediatly. s/M.E. Kobza."[85]

11/29/83. Mich. Court of Appeals #50565, L.C. #73-C-7432-CK, JOHN H. SHEPHERD, Presiding Judge * * *

"[P]laintiff is required to file an independent action." Mich. Court of Appeals 50565.[85]

1/30/84. Mich. Supreme Court #73254, COA: 50565, LC: 73-C-7432-CK:

"On order of the Court, the application for leave to appeal is considered, and it is DENIED, because the Court is not persuaded that the questions presented should be reviewed by this Court."[86]

2/15/84 So Plaintiff Don filed an independent action. But:

"Felony (criminal) complaints may only be issued by the Prosecuting Attorney. (Not D. Johnson). M.E. Kobza, Circuit Judge."[86]

10/31/84 No court of appeals judges were listed on its order not showing defendants as "jointly and severally" and referring to a 9/20/84[86] ORDER NOT ISSUED in court of appeals:

"In this cause, an application for rehearing of this Court's order of September 20, 1984, denying an application for leave to appeal having been filed by plaintiff-appellant, and no answer in opposition thereto having been filed, and due consideration thereof havinb been had by the Court; IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED for lack of merit in the grounds presented. IT IS FURTHER ORDERED that the Clerk is directed to refuse to accept any further pleadings in this matter from plaintiff-appellant, including a filing

of an application for rehearing of this order. GCR 816.5." 10/31/84 Court of Appeals 78170.[86]

3/28/85

"On order of the Court, the application in propria persona for leave to appeal is considered, and it is DENIED, because the Court is not persuaded that the question presented should be reviewed by this Court."

Mich. Supreme Court 75403 Re Court of Appeals 78170.

4/21/86:

"The Constitution says that when someone puts out, he is to get just compensation. If he puts it out to the public, he still supposed to be compensated justly. I entertained the public and what I put into it was taken away from me, many thousands and tens of thousands of dollars worth of effort and I never received just compensation. The case was brought before (trial) Judge Piercey and he went along with the powerful opposition * * * So Judge Piercey dismissed. Now, I brought before Judge Kobza, that's you, the situation whereby this dismissal in 1974 was procured by fraud upon the courts and prolonged for 11 years. There were parts of the case in the Court of Appeals, but the Court of Appeals never received the record, the full record. So they never had a chance to examine the full picture of what was going on, and so I was never given an appeal of right nor was I given a delayed appeal (of right). When you denied me a new trial on the grounds of fraud upon the courts, I was still pursuing a delayed appeal of right in the upper courts. I wasn't through yet. And the record to this date has never left the trial court for examination by any other court. * * * The Michigan Supreme Court had not yet finished reviewing the matter at a time when you denied my motion. * * * And then in '84, you denied my (filing my) independent action. * * * This court abused its discretion * * * This court

refused to file an independent action. It did not act on it. It refused to even allow it to be filed. So how could this court properly review if they didn't allow it to be filed? * * * So because of the federal and state laws allowing frauds upon the courts to be aired before upholding the dismissal, this court must allow a hearing of my 12 frauds upon the courts filed in May of '83, and this Court must also uphold the United States Constitution which says just compensation for services rendered whether to private or public, and this court must also take into mind that I'm in pro per and that liberal construction should be awarded my complaint. . . I was filing a civil suit because nobody in the prosecutor's office would help me file a criminal suit. . . I did file my affidavit of indigency. I was a bona fide indigent and was on welfare. I was picking up garbage and weeds from the grass at the county building, here, for years. There was no way to get a transcript before I did. And I told the proper authorities timely and so I did what I was supposed to do." 4/21/86 Trial Court Hearing Before Judge Kobza.

6/20/86 In a non-evidentiary hearing, Judge Kobza (1) ordered that Don's 73-7432 and 86-21207 actions be consolidated; (2) denied Don's request for disqualification of respondent CULVER and O'TOOLE firms from dual representation of the nightclub sellers and the 3 Johnson buyers disguised as moneylenders.

6/30/86 Mich. Supreme Court refused to take superintending control:

"AT A SESSION OF THE SUPREME COURT OF
THE STATE OF MICHIGAN Entered 6/30/86
DONALD EDGAR JOHNSON
Plaintiff-Appellant, SC: 78441
COA: 88008
v.
MICHAEL E. KOBZA: CARL ALFRED JOHNSON; RICHARD GORDON JOHNSON; CARL ALFRED JOHNSON, JR.: LANDMAN, LATIMER, CLINK & ROBB; and WILLIAM F. McNALLY, et al,

Defendants-Appellees.

On order of the Court, the delayed application in propria persona for leave to appeal is considered, andit is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court."

10/22/86 Court of Appeals 92822 denied Don's motion to compel the trial court to re-accept trial exhibits.

3/3/88 Danhof's court of appeals 92822, without reviewing Don's evidence, affirmed Kobza's granting summary disposition (no genuine issue as to any material fact) of consolidated cases and LIED that Don failed to cite any authority in support of his request for an order directing trial court to deliver 1974 trial exhibits to court of appeals.

2/2,3/29 and 4/14/89: Mich. Supreme Court 83419 denied leave to appeal and reconsider ation, of Danhof's court of appeals 92822 because it was not persuaded that the questions presented should be reviewed by that court.

Between 7/7/89 and 11/29/89: Danhof's court of appeals 108452 affirmed probate court's refusing to disqualify respondent O'TOOLE firm and granting O'TOOLE firm's motion to dismiss Don's Carl-Sr estate claim on ground of res judicata as if the matter had been provided a due process fair trial before a qualified judge Piercey, fully litigated with all of plaintiff's evidence presented, a closing argument, and a final 12/9/74 judgment issued that failed to provide any federally required "just compensation"

Between 7/7/89 and 11/29/89: Danhof's court of appeals 108452 affirmed probate court's refusing to disqualify respondent O'TOOLE firm and granting O'TOOLE firm's motion to dismiss Don's Carl-Sr estate claim on ground of res judicata as if the matter had been provided a due process fair trial before a qualified judge Piercey, fully litigated with all of

plaintiff's evidence presented, a closing argument, and a final 12/9/74 judgment issued that failed to provide any federally required "just compensation".

Between 7/31 and 9/3/89: Mich Supreme Court refused to stay or rehear the denials.

APPENDIX E: OTHER MATERIAL

Protestant Petitioner Don was born 7/12/22 at Muskegon's Hackley Hospital to clarify 2131 tampered with birth certificate.

About 1940, respondent Richard commited arson crimes and married the Catholic mother of his daughter born out of wedlock.

Engle & Engel's Albert J. Engel, Jr. was son of the late Albert J. Engel, 1945 chairman of House Ways & Means, who granted Don's 1945 personal Washington, DC recommending Carl-Jr, with high scholastic achievments, to a West Point scholarship.

1948 Don entertained in Detroit while NOT in U.S. Army Reserves. 2132

About 1949, Don entertained for over 2 years at the Carasal, St. Louis, Mo. and was repeatedly requested to return.

1953 Don was buying his mobile home performed at air pilot Furnasero's Ottawa St. "Par 4" nightclub.

Don met Wanda at cousin Beryl Black's home.

In February-1954, Don married Wanda.

On 6/11/54, Don was NOT discharged from Army Reserves - contrary to planted evidence that he was. 2131

1955 Don was signed to no AFM talent agent. Kandy Tapes & Records Corp. (Indiana) was founded by President Donald Edgar Johnson and Hammond, Indiana music store owner, Hal Morris. Attorney was Hammond, Indiana's Saul Ruman. 1577

On 8/8/55, Don had paid for his mobile

home/office/studio by 1954 and Don and Wanda began $40/month payments for land contract purchase of 334 Waterview, N. Muskegon real estate from Muskegon sheriff deputy/ constable, Ron Duryea's wife, S-748

Wanda became pregnant by Don's Muskegon cousin while Don was performing at Shula's Nightclub, Niles, Michigan.

6/6/56 Wanda insisted that Randy was his son at his birth in Oshkosh, Wis.

1956 Amer.Fed.Musicians of U.S. & Canada affiliation agreement NOT TO TRANSFER OWNERSHIP WITHOUT AFM'S APPROVAL IN WRITING signed by AFM Pres. Herman Kenin and Kandy Tapes & Records Corp. Pres. Donald E. Johnson a/k/a Donald Edgar Johnson. 603

11/17/58 Don's "Johnson's Boogie Woogie" was Copyrighted 2136 And Published On Don's Kandy Music Publishers (BMI) With Don's Muskegon Homestead Address 334 Waterview, N. Muskegon, Mich.

About 1959, Italian Dominic Giovanni incurred federal liens on his 3236 Hoyt-Muskegon Hts nightclub #1 and 3521 Hoyt-Muskegon Hts/Norton Township nightclub #2 totaling about $25,000.

Hackley Bank had issued a first mortgage on 3521 Hoyt when it was a roller rink.

About March-1960 as one of Don's phono records was on Billboard Top 10 best sellers list, realtor Mark and wife threw a cocktail party at their mobile home for Don and his family members in Ft. Lauderdale where Don appeared at (Milwaukee) Jimmy Fazio's Fireside Inn.

On 5/20/60, Wanda and children deserted Don to live with another man at her mother's home in Pennsylvania.

On 8/18/60, Wm R.Thornberry incorporated Club 87 Of Muskegon Heights, Inc. at said Giovanni IRS-closed nightclub #2, 3521 Hoyt, Muskegon Hts, Michigan. 2135

1961: Vanango county, Pa. sheriff instructed Don how he could take custody of his children from wrongdoing wife-

deceased policeman's daughter. And Don took them into Ohio where she refused to meet with children and save her marriage.

Wanda never answered personal delevery telegram's last chance to hold on to marital Kandy interests.

1961: Wanda who had replaced "bought out" Hal Morris was Kandy corporate officer, deserted Don, her children, and Kandy businesses to live with a Bill Hoffman a/k/a Bill Leet of Milwaukee.

4/2/62 Affidavits Obtained By Don's Pennsylvania Attorney J.G. McGill:

> "...I Doretha Schult, wife of Paul Schultz reside at 29½-13th St, Franklin, Pa apt no. 5 across the hall from Wanda L. Johnson and her mother. We have lived here eleven years. She moved in with her mother about May, 1960 and had 2 children with her. I know she has been associating with a Bill Hoffman since summer of 1960 * * * They have occasionally had noisy parties. Once 'till 3 AM and heard swearing and noise. Her mother Mrs Kiskadden also had a man in the apartment over the weekend many times * * * prior to March 1961 when Mr. Johnson got the children. * * * The children were not properly supervised. 3 times I saw Randy age 4 leaning over the 3rd floor railing of back porch and once straddle the railing and I got him off and called his mother. * * * I do not think Wanda Johnson is a fit mother to have custody of her children. Approved as correct and witness be me April 2, 1962. s/Doretha V. Shultz, s/Paul E. Shultz."

April, 1962 Wanda who, had been living with Bill since mid-1960 while married and collecting child support moneys from Don, filed a fraud upon courts divorce that Don deserted her. And Don's Pennsylvania lawyer and her lawyer recommended Don not waste time and money challenging the divorce because Don and his lawyer's new-found evidence could

prevail if necessary.

3521 Hoyt became a vandalized eyesore across from the Holiday Inn on the busy Seaway expressway.

July-1964 Don appeared at Club 61. 377,542,543,693,694

About August-1964 and after the 3 Johnsons agreed to back Don's purchasing a nightclub, Don complained to respondent LANDMAN firm that, when Don sought a Chicago address for Kandy Tapes & Records Corp (Indiana-AFM) about 1958, Chicago attorney Selwyn Coleman attempted to establish a Kandy Tapes And Records Corp (Illinois-AFM) just before Don broke off with him.

LANDMAN prepared the proposal for Don to manage/purchase Club 61 where he was performing,

August-1964 Richard and Larnard-Jr capitalized their Johnson Mold corporation for same amount, $40,000, which was the value of a sought-after portion of Don's phono record corporation. 395

9/5/64 Realtor Mark promoted said closed 3521 Hoyt at Seaway nightclub at Harry Gibson meeting. 396,398

9/7/64-5/7/65 "Start Chart" 2134 S-7 picture of items in Musikist Ledger.

9/18/64 Don filed a dba Kandy Tapes & Record certificate in Muskegon by attorney S.I. Rosenberg who couldn't collect $900 from a bad faith Cleveland phono records distributor. S-577

Don never 9/25/64-to-date borrowed money from the respondent 3 Johnson and his promissory notes were without consideration. (Bank statements, the nightclub ledgers, and recorded testimony are proofs that Don never took full custody).

The 9/25/64 to 3/22/80-land contract's end was the end of the joint venture.

The respondent 3 Johnsons were not creditors to the joint venture in Don's name temporarily until promised fair

incorporation.

9/28/64: Re the IOU to Carl-Jr.[141,142]

10/2/64: Richard used Don's unlawful power of attorney on front[415] and wrote on back of nightclub[416] Purchase Agreement,"It looks OK, Don".

On 11/4/64, Don contributed his check 810-$50 to attorney Locke for expediting a $18,000 "Novak" liquor license purchase.

11/5/64 Initial payment[425] on Seaway-Hoyt nightclub.

Between 11/5/64 and 3/22/65, Richard's name was on the land contract.[335,388,389, 393,409,413,415,424,427,430,443,462,480]

11/5/64 The 1964 - 1980 purchase of the 3521 Hoyt at Seaway[415,425,427,430,443,409,] nightclub began.

11/5/64: Don contributed his check 812-$50 to realtor Mark: $28 for photos and $22 for Mark's "draw".[752C]

11/6/64: Cheboygan AFM contract showed Don's address as[431] 334 Waterview, N. Muskegon, Michigan.

On 11/10/64, Richard provided Don with a $1,100 money order for working capital from said MBTC pool.[752C,,2134]

About 11/10-11/14/64, Don $14-drove realtor Mark and attorney Locke to Lansing[752C] where they secretly-from-Don conferred with the Michigan Liquor Control Commission top brass, probably including attorney Engel's former college roommate, Chairman attorney Stan Thayer.

On 11/14/64, Don $8-advertised[752C] in the Cheboygan D. Tribune newspaper his appearance at Gold Front nightclub, Cheboygan, Mich. where he conversed with 1962-elected Catholic State Attorney General Frank Kelley during an intermission.

On 12/2/64, Don contributed his check[752C] 837-$60 to Cal Johnson Studio, -- where Don's stereo tapes and records were being sold and which later was mysteriously burned down -- for photos of the vandalized unfinished 3521 Hoyt

eyesore.

On 12/4/64, Don contributed his check 839-$10 to joint venture attorney Engel, Jr regarding Don's proposed nightclub trade mark. 752C,1853

On 12/11/64, Carl-Sr was paid in full. 432

12/18/64: The 9/25-12/18/64 pooled $12,000 was used to start Musikist nightclub 2-signature Richard and Don Musikist checking account for purchase of Musikist nightclub. 390,437440,442, 449,599

- On 12/24/64, joint venturer Don contributed his check 858-$75 to attorney Locke for expediting purchase of the $18,000 "Novak" liquor licenses for the joint venture. 752C

About 12/25/64, Don received said Poppen, Street & Sorensen law firm's 12/22/64 jacked up $30,000, not $18,000, "Novak" liquor licenses Sale Agreement that excluded Don's co-venturers. 534

Mysteriously, Richard and Carl-Sr told Don that they wanted nothing to do with Don's record company. But Carl-Jr did not back out of his agreement to be an officer therein.

Don never used his Kandy enterprises as collateral for a loan. Rather, Don financed with cash from his traveling entertainer gainful employment.

On 12/28/64, Don followed Richard's instructions and contributed $3 cash to the Muskegon city clerk for a dba Musikist certificate. 752C

1964-65 Realtor Mark insisted Don $10-join Muskegon Hts' Mayor Heineman's Co-Optical club. 1965-67 Musikist Ledger

12/30/64 Date of conflicting debtor-creditor representation state agent Albert J. Engel, Jr's n/k/a Senior 6th Circuit Judge Albert J. Engel's initial misrepresentation of Don's family members being moneylenders rather than joint venturers. 523

Don contended that Engel's 12/30/64 letter representing Don et al outweighed his 1/6/65 draft of an Appendix to 12/22/64 License Sale Agreement for only Don. 518

12/31/64 Carl-Sr contributed $3,500 cash. 449

1/1/65 Carl-Sr was issued a $4,000 credit memo for 12/31/64 $3,500 + $500 for Don's children food & lodging. 7521
And Carl-Sr contributed $3,000. 450,752J
And his sister Augusta contributed $5,000 via Mary Olive Champion (MOC). 450,752C

1/6/65 State Agent Realtor A.J. Mark Solicited Respondent Thomas J. O'TOOLE'S Re-Draft Of Then-Attorney Albert J. Engel's Draft of his 1/6/65 Appendix To 12/22/64 Liquor Licenses Sales Agreement: 509,512

1/6/65 Respondent attorney O'Toole redrafted then-attorney Engel-Jr's 1/6/65 Appendix to 12/22/64 Sales Agreement for jacking up terms of purchase of $30,000+ liquor licenses -- in contradiction to O'Toole's 1990 pretending to the Magistrate Brennaman of no knowledge of this "entire transaction". 338,540

> "APPENDIX TO SALES AGREEMENT * * * January 6, 1965. TO: Alex T Novak and Berneice E. Novak * * * Dear Mr. and Mrs. Novak: I accept the Sales Agreement dated December 22, 1964 which you have executed and tendered to me; Provided;, however, you are agreeable to the following changes. * * * it should be understood that final closing is contingent upon my ability to exercise the option which I now have to buy the property at 3521 Hoyt Street, Muskegon, Heights, Michigan * * * provided that the provisions in that paragraph regarding insurance are deleted * * * I wish to have added to the Sales Agreement the following two (2) additional paragraphs: a) Subject always to the approval of the Michigan Liquor Control Commission, the benefits of the Sales Agreement may be assigned by purchaser to a corporation in which he and/or member

of his immediate family are holders of at least a majority of the voting stock: Provided that the corporation shall fully assume all the obligations of purchaser which are at such time still to be performed. b) It is understood that sellers in entering into this Agreement look solely to Donald E. Johnson for its performance and that any other persons who may be lending financial support are epressly understood not to be partners or engaged in an enterprise or joint adventure with 'Donald E. Johnson be reason thereof. * * * The purchase price, excluding the price paid for the inventory of alcoholic beverages, is Thirty Thousand ($30,000.00) Dollars, payhable as follows: a) Fifteen Thousand ($15,000.00) Dollars on the execution of this agreement, receipt of which is hereby acknowledged, the proceeds of which shall be held in escrow by Anthony J. Mark, of 2433 Lakeshore Drive, Muskegon, Michigan, until the closing of this transaction. b) The balance of Fifteen Thousand ($15,000.00) Dollars shall be paid to Seller by Purchaser in monthly installments of Two Hundred ($200.00) Dollars per month, or more, on the 1st day of each and every month following the closing of this transaction, plus interest at the rate of five (5%) per cent per annum, computed monthly on all unpaid balances, provided however, that the entire balance of principal and interest shall be due and payable in not more than five (5) years from the date of closing this transaction. Sellers hereby agree to pay a real estate commission to ANTHONY J. MARK in the total amount of Three Thousand ($3,000,00) Dollars, which commission shall be paid upon a final closing of this transaction... Initialed s/DEJ, s/ATN, s/BN * * * Very truly yours, s/Donald E. Johnson. PURCHASER; ACCEPTED: s/Alex T. Novak, s/Bernice E. Novak."

1/11/65 Respondent LANDMAN LATIMER CLINK & ROBB Was A Partner Of Perpetrator

LANDMAN GRIMM BRADBURY & LAURIN Which Drafted Perpetration Of Deft Richard's Confidence Game While Representing The Hackley Union Nat'l Bank & Trust Co. Signature Card to DONALD EDGAR JOHNSON OR RICHARD G. JOHNSON" 1/11/65 $20,000.00 Savings Account Which Was Not A So-Called Musikist Savings Account Owned Solely By Donald Edgar Johnson.[440,450]

1/13/65 Evidence That respondent O'Toole WAS And IS Involved In The 1964-To-Date Confidence Game:

> "SUN AGENCY * * * PURCHASERS STATEMENT PURCHASER: Donald E. Johnson, a single man. PURCHASE OF "Push's Tap Room" - PURCHASE PRICE: $30,000.00 * * * ATTORNEY O'TOOLE - ORIGINAL OPTION COMPOSITION CHARGE .. $45.00 * * * Anthony J. Mark, Assoc. Broker - s/Donald E. Johnson".[540]

1/27/65 Attorney Engel told Don that he would get fair equity in nightclub's corporation.[142]

On 2/8/65, the BAD FAITH State agent attorney Engel drafted the 2/9/65 Unlawful Trust Agreement[476] between joint venturer Richard and so-called moneylender, Harry E. Gibson.

> "...TRUST AGREEMENT made this 9th day of February, 1965, between Donald E. Johnson, herein called SETTLOR, and Harry E. Gibson and Richard G. Johnson, herein called TRUSTEES * * * To assist in the financing of his said venture, Settlor has borrowed certain monies from Harry E. Gibson, Carl A. Johnson, Sr., Carl A. Johnson, Jr., and Richard G. Johnson, herein called CREDITORS * * * To secure the Creditors above named pending his acquiring the land contract interest above referred to, Settlor has concurrent herewith transferred the ownership of $14,000.00 of the savings now held by Settlor in a savings account in the name of MUSIKIST ..." 2/9/65 Unlawful Trust

Agreement Drafted By A Confidence Game State Agent Respondent Perpetrator.

Between 2/8 and 2/16/65, joint venture attorney Engel-Jr issued secret-from-Don UNLAWFUL AGREEMENTS S-225-228 for Michigan Liquor Control Commission chaired by Engel-Jr's former college roommate -- presented and viewed by trial court in color-coded binders, but not received because the partial trial was prematurely ended on 12/9/74 before pro se nonlawyer Don could present all of his preponderance of evidence and a closing argument and where opposing attorney were colluding.

> "1/11/65 HUNB (Savings A) -$20,000 * * * 3/18-3/22/65 Savings A +$5,250, Savings B +$14.000." Musikist Nightclub Ledger Sheets Showing Return Of Monies To Checking Account In Time For 3/18/65 Beginning Of Land Contract In Don's Name "Temporarily" Until Incorporation.

3/8/65 Sam Laurin represented nightclub sellers and their tax problems. 81,82,413

3/18/65 Richard's name stopped appearing on the land purchase. 452,480,567

4/8/65 Engel-Jr gave green light to proceed with land purchase:

> "...While unquestionably it would be prefereable for an adequate discharge to be obtained by the Internal Revenue Service this doe not seem to be practicably possible and, therefore,we are left with a decision whether the record title as it now stands can be considered marketable notwithstanding the record of said liens, and in view of the subsequent forfeiture proceedings and the affidavit and letter referred to. In my Opinion, while this is not the most desirable record still I believe that you may safely proceed and ignore the said liens....s/Albert J. Engel." S-251

4/15/65 The unlawful monthly interest payments on the $20,600. 566

Don could only glance at completed

land contract.[430,535,566]

4/15/65 The Confidence Game Documents: (a) Which Were Locked From Don 1965-74, (b) Which Respondent O'TOOLE Law Firm Refused To Produce For Don's Defense Against Respondent LANDMAN Firm's Respondent Richard's 5/20/70 Foreclosure, and (c) Which Magistrate Brenneman Refused To Acknowledge Were In Respondent O'TOOLE Firm's Atty William Hipkiss's Handwriting as opposed to Don's handwriting At The 6/25/90 Hearing:[364,518] (See Don's handwriting in ledgers).

"ATTY HIPKISS TO DEJ-5/16/74 11 A.M.:

1. Unsigned copy of Bill of Sale
2. Machine copy of signed Sales Agreement
3. Unsigned copy of Amendment to Sales Agreement
4. Machine copies of Sun Agency letter to Donald Zemke
   A. April 5, 1965
   B. March 8, 1965
5. Carbon copies of purchasers statement
   A. Biermacher, Clark, Scalici & Christensen
   B. Novak
6. Copy of purchase agreement
7. Original Title Opinion-4/6/65
8. Copy of letter Amendment to Sales Agreement
9. Copy of St. Paul Insurance Policy
10. Affidavit of V.S. Lauren re Tax Liens
11. Two Liquor Control Commission letters
12. 4 Money Lender Statements (copies)
13. MLCC "Warning". Check List and Assignment of interest in Licence.
14. Copy of Novak Identification Card.
15. Original Trust Agreement 2/9/65
16. Copy of Power of Attorney
17. Copy of Land Contract
18. Mortgage (copy) 4/15/65
19. Copy of letter to Sun Agency AJE 12/30/64.

The above documents were given to me by Attorney Wm. J. Hipkiss on May 16, 1974.s/Donald E. Johnson"

4/15/65 The Following Were Present

At That 4/15/65 Confidence Game "Send Off" Meeting When Don Signed All Of Those Documents Locked Away From Don In Respondent O'TOOLE Partnership's Office Until May, 1974: State Agent Then-Atty Albert J. Engel,Jr. n/k/a 6th Cir. Judge Albert J. Engel; Harry E. Gibson; State Agent Realtor Anthony J. Mark; Joint Venturer Respondent Three Johnsons; and Joint Venturer Petitioner Donald Edgar Johnson.S-257

4/15/65 Only Richard returned his memo of collateral (#1 for $2,000) which he later stole from Don's desk. Carl-Jr never returned 9/25/64 memo #2.141 to this day.

As directed by State agents, Don signed $20,600 note590 which is still held by respondent O'Toole's attorney Hipkiss or his privies to this day.

4/16/65 The invalid 3521 Hoyt nightclub mortgage was recorded in county Register of Deeds as delivered by Don persuant to realtor Mark's instructions.S-923

5/7/65 Richard no longer signed Musikist checks.S-275a

On 8/1/65, State agent Larnard's secretary obtained Don's signature on document not showing name of corporation being registered so that the valid and fabricated Kandy corporations could be switched.2140,2141

On 8/4/65, realtor Mark dba Sun Agency began dba the Sun Agency, Inc. that allegedly was capitalized with Don's stolen Kandy Tapes & Records Corp. assets.2137

On 8/12/65, State agent Larnard's secrtary obtained Don's signature under false pretense of registering a Kandy Tapes & Records Corp (Mich) on a separate page.2140,2141

8/27-9/8/65 Rather than transfer Don's Kandy Tapes & Records Corp (Indiana-AFM) to Michigan, State agent Larnard law

firm's Evelyn Peliotis, a/k/a Evelyn Wright, registered a worthless Kandy Tapes And Records Corp. (Mich) because Kandy Tapes & Records Corp was already stolen. 2141, 2142

8/31/65 State agent Larnard law firm misrepresented to Don and Carl-Jr that Don's very valuable Randy Tapes & Records Corp. (Indiana-AFM) had been transferred to Michigan. 1587

8/31/65 Kandy Tapes & Records Corp (Mich) Application for sales tax license. 129 542, 543-Stolen

9/10/65: Respondent Richard's 1964 attorney Larnard Jr's misregistering Don's Kandy Tapes & Records Corp as Kandy Tapes And Records Corp. 2142

9/20/65 Indiana revoked Kandy Tapes & Records Corp. (Indiana). 694

State agents allegedly used a bogus Donald E. Johnson for transferring Kandy Tapes & Records Corp (Indiana) to another business entity before 9/20/65 -- meaning Larnard firm's 12/31/65-12/31/66 report signed by Don and Carl-Jr was a hoax or false pretense.

10/6/65 LANDMAN's attorney Laurin addressed Musikist problem. 482

12/31/65 For Don's 8/65 $150, Engel-Recommended Larnard Law Firm Pretended To Have Transferred Don's Kandy Tapes & Records Corp. Indiana To Michigan For 12/31/65-10/18/67 Minimum Time Span.

1/6/66 Don treated Gibson plus 3 Johnsons as partners. S-306

8/1/66 Realtor Mark Appraisal showing appreciation. S-929

11/22/66 Engel-Recommended Larnard And Larnard Firm's And Respondent Richard's Atty Charles A. Larnard, Jr. Instructed Johnson Family To Hold Off Incorporating The Nightclub Until Better Nightclub Profit. 1094

1/1/67 Petitioner Don's And Resondent Three Johnsons' Attorney y Albert J. Engel, Jr. Became A Muskegon

Circuit Judge.

5/10/67 Don and Carl-Jr signed 12/31/65-12/31/66 report re so-called Kandy Tapes & Records Corp. (Mich). 1577

7/7/67 Carl-Jr and Carl-Sr moved into manificent brand new deluxe Port City Machine & Tool Co factory, Muskegon Hts. S365

8/1/67 Don paid to correct name. 120,542,543

8/67 Richard's Tuxbury Insurance man attempted to get Don's signature on a phony worthless Kandy Tapes And Records Corp. (Mich) document. 1590

10/18/67 Respondent Carl-Jr breached an important fiduciary agreement resigning as officer to Don's Kandy Tapes & Records Corp. Rather Than Sign His Name To Correct Respondent State Of Michigan's Erroneously Listing It As Kandy Tapes And Records Corp.(Mich). 1599

3/31/69: Respondent Richard G. Johnson who had incorporated his Johnson Mold & Mfg Co in 1964, incorporated an additional EPC Industries, Inc. 2133

6/30/69 State Dept of Treasury listed Kandy Tapes & Records Corp. S-679

7/1/69 Respondent Richard's Post-1/1/67 Atty Fred C. Culver, Jr. became member of respondent LANDMAN firm that included Perpetrator LANDMAN GRIM BRADBURY & LAURIN whose Hackley Bank client Had 1/11-1/14/65 Disguised Joint Venturer Richard Buyer As A Moneylender To Don While Representing Nightclub Land Sellers.

Respondent Attorney Culver Mistakenly Failed To Withdraw From This Matter.

> "Propriety of attorney's conduct in dual respresentation is measured not so much against similarities in litigation, as against duty of individual loyalty which attorney owes to each of his clients ABA Code of Prof. Res. DR 5-105(B)." Picker Intern. Inc. v. Varian Associates, Inc. [(1989 C.A.Fed.(Ohio)] 869 F2d 578.

1969 Allegedly, Don's California-Stored Mobile Home/Office And The Muskegon County Nightclub Were Burglarized Of Substantial Kandy Documents And Indiana Corporate Seal by ex-policeman Fenton Kelley, Wm F. Kraus, and Mary "Tex" Champion. 918

1969 LANDMAN-represented Muskegon Chronicle writeup about Musikist unpaid property taxes appeared amid nightclub ads.

1969: Don noticed large quantity of Club 87 liquor being sold at Musikist by comparing emptied bottles with meter attachments versus Musikist-owned -- meaning Mu;sikist registers had been rigged and/or some of the 5 bartenders and 13 waitresses were cheating bigtime.

4/6/70 Respondent Carl-Sr Signed Perpetrator Respondent LANDMAN Firm-Drafted Proposal To Incorporate The Nightclub Which Don Rejected As A Sham.

Don earned 65% of a $175,000-capitalized corporation. 509

4/9/70 The **bad faith** State agents LANDMAN and O'TOOLE firms programmed their 3 Johnson clients -- who invested less than $23,000 to Don's Kandy sssets, (5½x52x100) 28,600 hours, plus $_____ to offer Don 1/3 of a $45,000-capitalized corporation or nothing!!!

4/20/70 Don had earned at least 65% of never-formed incorporation of the "Musikist" nightclub and Richard re-refused incorporation or refinancing. 515,1577

5/20/70 Respondent Perpetrator/ Perpetuator LANDMAN'S Respondent Atty Fred C. Culver, Jr's Client, Respondent Richard G. Johnson, Foreclosed Upon Don Under False Pretense That The Respondent 3 Johnsons Joint Venturers With Don Were Moneylenders To Don In Violation Of 42 USC § 1985(2)(3).

6/30/70 Don's Musikist Balance Sheet showed assets of $130,275 and proprietor's equity of $8,848. S-956A

7/28/70 The following is an accounting of what Don transferred to his father, Carl-Sr, in the 4 Johnsons meeting of 7/27/70 so that Don could go on public welfare and mitigate California damages:

"6-30-70 BALANCE SHEET

Musikist
7/28/70 DEJ

CURRENT ASSESTS	ASSETS	
Cash In Bank	121.38	
Cash On Hand	174.80	
Accounts Receivable	167.70	
Loans Receivable, Musk Co-Op Fed'l Cred. Union	1132.00	
Merchandise Inventory	1869.20	3465.08
FIXED ASSETS		
Furniture & Equipmet	31083.64	
Bulding & Real Estate Improv	60611.04	
Less Depreciation -	21714.01	69580.67
Land		25000.00
OTHER ASSETS		
State Liquor License	30871.00	
Prepaid Expenses	528.50	
Supplies On Hand	350.00	
State Tax Credit-Form LC 2005	80.00	31829.50
TOTAL ASSETS		130275.25
LIABILITIES & PROPRIETOR'S EQUITY		
REAL ESTATE, Land Contract	45232.63	
" " Tax '68	2592.88	
" " Tax '69	1946.00	
" " Tax '70	925.00	
" " Improv-Kelly-Haverman	775.00	
" " Elec Eqpt & Sply	930.00	
" " Mac's Electr	226.00	
" " Engle & Engel	370.00	
" " Hall Electr	2283.00	
" " Rieth-Riley CC	1830.45	57110.96
STATE LIQUOR LICENSE		3816.00
FURNITURE & EQUIPMT-np-Post F	180.00	
" " -np-Nat'l Cash Reg	251.67	
" " -ap-Hts Sheet Metal	10.00	
" " " Art Grimmer Signs	46.00	

" " King Keys	36.00	
" " Lappo Lumber	115.00	458.67
FED'L WH & FICA (2d Qutr)	307.42	
RLD Stamp	54.00	
STATE:		-0-
COUNTY: Food Permit Renewea		25.00
CITY: Personal Property Tax '69	757.00	
" " '70	360.00	1117.00
BACKERS-np-V & CA Johnson Sr	15230.50	
" **Musk CoOp Fedl Cr Union**	**7987.00**	
" R G Johnson	9797.79	
" C A Johnson Jr	4536.12	
" Port City Machine	3982.06	
" Sun Agency	1213.82	
" Earl & Louis Hutchins	1015.00	
" Muskegon Loan Co	826.00	
" M O "Tex" Champion	684.78	45273.07
BACKERS-ap-M O Champion	8262.10	
" " Darlyn J Johnson	762.00	
" " R V Johnson	313.00	
" " H E Gibson	345.00	9683.05
BANK OVERDRAFT		1983.54
PROPRIETOR'EQUITY		8667.75
TRADE: ASCAP	231.75	
Adolph Ruffelo	71.80	
Harrington Organ Co	152.00	
S Bush for Jiroch C & T	176.00	
Model Linen	20.00	
Muskegon Chronicle	778.51	
Associated Publications	157.19	
Tribune, Gd Havn	24.96	
Tuxbury Insurance	167.08	1778.79
TOTAL LIABILITIES & PROPRIETOR'S EQUITY		130275.25*

*Plus certain equities concerning some backers.

7/15/70 Carl-Jr returned his 9/28/64 I.O.U. 6 years late and never returned his 9/25/64 $1100 memo no 2 to this day, 2000.

7/27/70 When Don Verbally Turned Over His Equity In The Joint Venture To His Father Respondent Carl-Sr Johnson Because Of The 5/20/70 Forecloser-6/26/70 "Secret" Default Judgment, Don Was Unaware That Carl-Sr Had Secretly Signed The State

Carl-Sr Had Secretly Signed The State Agent Engel-Prepared UNLAWFUL 2/15/65 Agreement For The Liquor Control Commission Not To Be A Participating Venturer. (This Was A Ground For Don's 1986 Claim Against Respondent Carl-Sr's Estate).

7/27/70 Jay Corp. began -- excluding Don. S-943

7/29/70 "Joint venturer-disguised by State agents as moneylender" **Carl-Sr Mandated** $1 Quit Claim Deed to respondent LANDMAN firm's attorneys Fred Culver, Jr. and Thomas Boven, Trustees. S-947

July-1970 "Joint venturer-disguised by State agents as moneylender" **Carl-Sr Mandated** Assignment of Land Contract to respondent LANDMAN's attorneys Culver and Boven. S-948

July-1970 "Joint venturer-disguised by State agents as moneylender" **Carl-Sr Mandated** Assignment of Musikist liquor licenses to Jay Corp. S-950

"Gross	Income	Tax Paid
68,742	1965	3,404
85,025	1966 6,383	393
67,896	1967 1,347	86
89,169	1968 -2,032	0
67,669	1969 -1,115	0
17,490	1970 -7.905	0"

7/15/70 Carl-Jr returned the 9/28/64 IOU, but never returned memo of collateral #2 for the same $1,100 to this day, 2000.

8/19-12/4/70 "Joint venturer-disguised by State agents as moneylender" **Carl-Sr Mandated** Power of Attorney To Carl-Sr. S-953 Unaware That Respondent Carl-Sr Was Secretly Breaching Fiduciary Duties, Don Provided Him With Power Of Attorney For Winding Down The Joint Venture While Don Might Be On Public Welfare Schooling His Chidren-Mitigating Mobile Home/Office Damages in California.

8/19/70 Richard provided Don $200 for travel expenses until public workfare, San Diego.

11/2/70 Club 87 took over Musikist liquor licenses. S-959

12/70 **Don Was Shocked And Outraged When He Learned In California That Respondent Carl-Sr Had Turned All Of Don's Equity In The Joint Venture Over To Respondent Richard.**

8/19/71 Richard's Johnson Mold & Mfg Co. corporation employee, Art Hartman who took inventory of Musikist assets during its last days, incorporated The Outdoorsman, Inc. 2133

6/4/73 3521 Hoyt nightclub $31,000 liquor license (that was stolen by Jay Corp.) became owned by respondent O'TOOLE firm's attorney Robert T. Johnson's respondent Carl-Jr's CarCal Corp. that excluded Petitioner. 2133

8/6/73-1/5/74 Petitioner Don fired Gillard & Gillard law firm for aiding and abetting the theft of Don's Kandy Tapes & Records Corp. booklet/1956 labor agreement with Amer.Fed. Musicians.

8/5/74 Don was dba Kandy Tapes & Records. S-733

10/3/74 Respondent 3 Johnson (Don's father and 2 brothers) defendants' only document filed in the 1974 partial trial by respondent LANDMAN conflicting debtor-creditor law firm's William F. McNally which represented buyers-disguised as moneylenders and sellers of the nightclub land and had represented Don re a nightclub in summer, 1964. 2144

> "October 3, 1974 * * * (Deficit) ($2,148.88 Note: The above does not include $13,437 owed Mr. and Mrs. C.A. Johnson, Sr. as of June 30, 1970 by Donald Johnson dba Musikist." 2144

Attorney John B. Olsen opined that there was a family joint venture. 1811 1858

There were infirm proceedings.

11/27/74 Petitioner Don's Testimony -- Before 12/9/74 Erroneous Dismissal -- Of Proofs/Evidence That The 1964-70

Family Venture Was A JOINT VENTURE; Not A Moneylending Venture: 11/7/74 T95 or 12/9/74 T20; 2T35

"1. Joint retaining venture's attorney Albert J. Engel, Jr
2. Joint payment-4/70 of venture's county real estate taxes.
3. Joint checking account.
4. Joint planning with and without jointly-appointed bookeeper/accountant Epplett.
5. Joint savings account.
6. Joint delay selling phono records assets.
7. Joint acceptance-1/5/65 of M.O. Champion's $5,000 loan to venture.
8. Joint ownership and sale of plaintiff's homesite for capitalizing the venture.
9. Joint saving/trust account via attorney Engel.
10. Joint extension of Promissory Notes' time limit.
11. Joint Trust Agreement.
12. Joint decision re remodeling contracting.
13. Joint decision re purchase of venture's insurance.
14. Joint acceptance of venture's realtor's loan to venture.
15. Joint decision re venture's real estate title discrepencies.
16. Joint decisions re phono records assets liquidating.
17. Joint decision of C.P.A. checkup of venture.
18. Joint waiver of 3-year notes' peyment when due.
19. Joint decision re extra entertainment gambles.
20. Joint payment of Accountant and decision postponng incorporation.
21. Joint decision to waive $16,000 minimum promised starting capital for nearly 2 years.
22. Joint belief in plaintiff's then-current equity in future incorporation of venture.
23. Joint decision to delay real estate payments.
24. Joint decision re accepting M.O. Champion's loans.

25. Joint decision to default Reith-Riley lawsuit.
26. Joint decision to put plaintiff's children to work 7 days/nights weekly.
27. Joint decision to reduce to austerity budget.
28. Joint decisions to reject plaintiff's invitations to go back on road.
29. Joint decision re accepting E & L Hutchins' $1,000 loan.
30. Joint decisions re special financial statement preparation.
31. Joint decision not to incorporate.
32. Joint decision not to appraise via Nedeau.
33. Joint decision to withhold paying $185 to San Diego trailer park DeAnza by 6/24/70.
34. Joint decision to withhold guaranteeing big winner Sally Rand her $100 per night for return engagement.
35. Joint delay-7/15/70 of venture's real estate payment.
36. Joint delay-3/5/70 of venture's liquor license payment.
37. Joint decision to lay up plaintiff's car rather than repair.
38. Joint decision to transfer nightclub portion of venture to defendants.
39. Joint payment of plaintiff's life insurance routine payhments.
40. Joint decision to repair plaintiff's auto by 1/1/71.
41. Joint decision to repair plaintiff's musical career tools 2/71.
42. Joint decision to repay E & L Hutchinson creditors nearly in full.
43. Joint decision re venture' nightclub IRS obligations.
44. Joint decision re plaintiff's trip seeking justice 11/71.
45. Joint decision to produce even brief accounting 12/1/71.
46. Joint decision to return plaintiff San Diego to Midwest.
47. Joint decision plaintiff to depart from gainful traveling career on 11/5/64;

depart for San Diego 8/24/70." 11/27/74, p 95; or 12/9/74 Hearing. T20.[484,2135] Plus U.S. Supreme Ct #95-934 Petition For Writ of Certiorari To 6th Cir. Ct. of Appeals And Rehearing, p3. (State exhibit numbers omitted).

Judge Piercey ruled that family member were not on a joint venture; rather they were on a moneylending venture.

12/9/74 Judgment of "no cause for action".[220]

12/9/74 Judge Piercey never settled 1974 partial trial facts until 7/31/79.[82] Without due process 12/30/74 hearing.

1975-76 Don was on Muskegon public workfare[62] picking up trash for the county.

9/14/75 The exact copy of the following order was **STOLEN.** In essence it read:

> "STATE OF MICHIGAN - COURT OF APPEALS
> Donald E. Holbrook, Jr P.J. No. 22496
> DONALD EDGAR JOHNSON, Pltf-Appel
> v LC:73-C7432-CK
> CARL A. JOHNSON, Sr., Et Al.
> Defs-Apellees.
>
> Defs' motion to dismiss is DENIED. Pltf's motions to use capsule statements DENIED."

Judge Piercey's settled facts (without a due process scheduled hearing) were never sent to court of appeals until respondent Danhof became ch. judge in 1979.[1858]

12/7/81 The Muskegon County Clerk labeled:

> "JOHNSON VS. JOHNSON File No. 73-7432-CK. This box contains various Plaintiff's Exhibits offered, not received in evidence, and also Plaintiff's Exhibits not offered, not received in evidence."

About 1982, Judge Piercey changed his mind and ruled that family members were not on a moneylending venture; rather, they were on a moneygiving[1859] venture.

3/8/82 At hearing without respondent state agent William F. McNally for 3 Johnson defendants, Don alleged that bad faith State agent interest groups

stole his Kandy assets by a stipulation off record between Don's assistant attorney John B. Olsen and the 3 Johnsons' attorney William F. McNally that Don gave away his record company. 3/8/82 ~~Hearing, T49;2143~~

5/10/82 Judge Piercey attempted to block Don's further pleadings. 82

5/3-5/20/83 Don hired attorney Veurink for seeking a new trial. 696-710

Both state and federal courts refused to disqualify the respondent CULVER firm from representing Richard and Carl-Jr. 80

1990: As Don was being squeezed out of $400-500 weekly employment at Muskegon Hts. "Bob-Hi" nightclub, realtor Mark placed a little slip of paper on Don's vehicle reading in essence:

> "You'll be sorry if you don't transfer your state of the art music equipment to Cottage Inn. (formerly known as the Mary 'Tex' Champion's Canterberry Inn which stole one-man Don's crowd with dance bands in 1970)."

Since that time, the Muskegon Hts AFM Local 252 was closed, said Cottage Inn was bulldozed, said Club 61 was trashed, said Par 4 nightclub was taken over by the blacks' Elks Club, and Don was unsuccessful in finding further nightclub employment paying more than minimum AFM union scale.

6/25/90 State agent repondent attorney O'Toole L-I-E-D to the magistrate that nobody in his law firms knew anything about this matter. 337

1990 Like the State action, time/money-saving Requests for Admissions were not allowed by the one-judge Gibson court.

7/9/93 The Court Of Appeals Panel Which Pretended To "Correct" Circuit Judge Engel's Intervention Refused To Correct Fact That Don DID File The Requisite Number Of Copies Of His Petition For Rehearing En Banc. See 3/10/93 Denial Of Rehearing En Banc:

"...The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied." 7/9/93 6th Cir. Court Of Appeals Re-Denial Of Rehearing.

By 1994, Fenton Kelley was co-owner of TV Channel 40 on border of Muskegon Hts. and Norton Shores, Michigan with good reception for Wm Krause-designed/ developed horse racetrack's fans.

And influencing votes!

And said attorney Stan Thayer of Mich. Liquor Control Commission was the lawyer who suprevised the bulldozing down of Musikist nightclub for erecting a Chi Chi resdtaurant-lounge.

1/5/94 The unqualified "Gibson" court issued an Injunction mandating a magistrate-one judge district court.[3]

10/11/94 Don filed his required Affidavit In Support Of Petitioner's Motion For 28 USC § 144 Disqualification Of Judge Gibson:

"AFFIDAVIT * * * Donald Edgar Johnson, first duly sworn and deposed, says:

1. He is plaintiff herein this nonclosed case.

2. This affidavit is made in good faith.

3. Judge Benjamin F. Gibson cut plaintiff off at the 12/5/90 dispositive hearing thereby preventing plaintiff from refering to his evidence filed long before that hearing and re-filed at the onset of that hearing.

4. A hearing before an unbiased and impartial decisionmaker is a basic requirement of due process.

5. The probability of actual bias on the part of decisionmaker Judge Gibson is too high to be constitutionally tolerable.

6. No person, including persons within a class of resulted indigent pro se nonlawyer victims of fiduciaries' longtime Confidence Game-abuse of Judicial Process conspiracies, shall be denied the equal protection of the

laws.

7. Contrary to FRCVP 56, Judge Gibson 12/5-12/19/90 did not due process-equal protection adjudicate defendants' motion for res judicata summary disposition on plaintiffs' evidence.

8. Despite plaintiff's filing pertinent 1973-82 state trial evidence 1-judge reviewed then ordered removed in 1983, plus state judgments procured without due process, Judge Gibson joined state courts' 1974-89 denying plaintiff's due process-equal protection right of appellate review.

9. Contrary to federal doctrine of res judicata [Allen v McCurry (1980) 449 US 90,95, 66 LEd2d 308,313, 101 S Ct 411], Judger Gibson did not due process-equal protection 12/5-12/19/90 deny defendants' motion for res judicata summary disposition.

10. Contrary to U.S. Const. Amend. 1, Judge Gibson did not due processequal protectin provide reasonable access for plaintiff's 1/10/92 emergency (undocketed) motion for FRCVP 60(b) relief supported by a copy of plaintiff-appellant's 725-pages Joint Appendix that was ignored by Court of Appeals for the Sixth Circuit No. 91-1160 thanks to defendants-appellees' masquarading as defendants-appellants with supplementary joint appendix duplicating their 12/5-12/19/90 switched-for-plaintiff's' evidence in district court.

11. Contrary to Judge Gibson's 4/167/13/92 Orders rejecting plaintiff's emergency 1/10/92 motion and supplements for FRCVP 60(b) relief -- (and in agreement with Judge Gibson's 1/9/94-entered Order allowing further pleadings) -- no 12/18/90 "final" judgment has already been entered dismissing this action so that 'the case is not longer pending in this or any other federal court'.

12. Contrary to Judge Gibson's 4/167/17/92 Orders, Judgment in this action was not entered on December 18, 1990; rather, it was entered on December 19, 1990.

13. Nowhere in the Judge Gibson 12/19/90-entered opinion and judgment is there

dismissal of the action; rather, there is dismissal of just the original thru 4th amended complaints. See Opinion and Judgment (docket nos. 102,103).

14. Contrary to Judge Gibson's 4/16-7/13/92 Orders, no 12/18/90 final judgment dismissed this action; rather, a 12/19/90 non-final judgment dismissed plaintiff's original thru 4th amended complaints.

15. Judge Gibson 1/11/92-9/27/94 refused to grant FRCVP 60(b)(5)(6) relief that would have set aside or vacated his 12/19/90 thru 9/27/94 judgment and orders procured by extrinsic frauds upon the courts and/or without due process-equal protection.

16. Judge Gibson 1992-94 refused plaintiff FRCVP 60(b)(6) relief plus FRCVP 15(a) leave to file an amended complaint comporting with his proponderance of evidence when justice so required.

17. Contrary to U.S. Const. Amends. 5 and 14 due process-equal protection clauses, Judge Gibson -- without providing due process-equal protection to plaintiff -- entered 1990-94 judgments and orders that are consistently blatantly partial to defendants.

18. Plaintiff complained to the U.S. Supreme Court Nos. 93-951 + 94-146 of Judge Gibson's 1990-94 judicial misconduct and urged his disqualification since 10/1/93 on heels of a fruitless interlocutory appeal to the U.S. Court of Appeals for the Sixth Circuit Nos. 91-1160 + 92-1829 that would have remedied the misconduct without disqualification.

19. Plaintiff mailed copies of his 10/1/93 and '7/22/94-pending' two U.S. SUpreme Court Petitions for Extraordinary Writ to Judge Gibson in care of the Clerk of this Court. See 10/1/93 Petition, pp 38,49; 7/22/j94 Petition, pp 8-10, herein the record of this case.

20. Despite plaintiff's urging, the U.S. Supreme Court declined to review this matter on the merits; i.e. on the record.

21. Relief from Judge Gibson's 12/18/90-filed thru 9/23/94-filed judgments pursuant to Rule 60(b)(6) should have been 3/11/92-9/27/94

granted in this case arising over dispute between litigants where Judge Gibson had violated 28 USCS § 455(a), which concerns disqualification of federal judges and Judge Gibson should have known of circumstances which disqualified him, for lack of impartiality, from 12/5/90-9/27/94 hearing this dispute.

And this case's 3/11/92-9/27/94 2½-years delay was attributable to Judge Gibson's inexcusable failure to disqualify himself.

Plaintiff believes that he is filing this affidavit at least ten (10) days prior to any district court judge's yet-unannounced hearing of plaintiff's appeal for FRCVP 59(e) relief from Judge Gibson's 9/27/94 Order affirming Magistrate Judge Hugh W. Brenneman, Jr.'s post-1/5/94 pertinent decisions favorable to defendants on ground of Judge Gibson's 3/11-7/13/92 erroneously denying access to plaintiff's 3/10/92 motion for FRCVP 60(b) relief from the 12/19/90 judgment, then repeatedly erroneously ruling that his 12/19/94 judgment dismissed the entire case rather than the complaints.

23. Plaintiff's actions:

#1: 4/73-11/89 (contract-motion for relief);
#2: 2/86-11/89 (independent for relief);
#3: 5/86-TO DATE (estate claim);
#4: 2/90-TO DATE (civil rights, copyright etc);

24. Justice requires that Judge Gibson disqualify himself, a different judge provide FRCVP 59(e) relief altering or amending Judge Gibson's 9/27/94 Memorandum Opinion & Order, and a FRCVP 60(b)(5)(6) evidentiary hearing be provided for resolving the following issues forthwith:

A. WHETHER PERTINENT 1974-TO-DATE STATE AND FEDERAL COURT JUDGMENTS OF PLAINTIFF'S ACTIONS #1 THRU #4 SHALL BE SET ASIDE OR VACATED BECAUSE THEY WERE PROCURED BY FRAUDS UPON THE COURTS AND/OR WITHOUT DUE PROCESS-EQUAL PROTECTION. FRCVP 60(b)(5)(6); U.S. CONST. AMENDS. 1,5,14?

B. WHETHER THE DEFENDANT ESTATE'S ATTORNEY

THOMAS J. O'TOOLE -- (NOT THEN-ATTORNEY ALBERT J. ENGEL) -- DRAFTED THE ALLEGED UNLAWFUL 1/6/65 APPENDIX TO 12/22/64 NIGHTCLUB SALES AGREEMENT AT THE HEART OF THIS 1964-94 DISPUTE?

C. WHETHER DEFENDANT LAW FIRMS ARE UNQUALIFIED TO REPRESENT ANY OF THE JOINT AND SEVERAL DEFENDANT THREE JOHNSONS?

D. WHETHER PLAINTIFF SHALL PROCEED ON HIS CAPTION-SUPPLEMENTED (TO EXCLUDE JUDGE ALBERT J. ENGEL) 1/24/94 CLASS ACTION 5TH AMENDED COMPLAINT SUPPORTED BY HIS 725 PAGES JOINT APPENDIX?

25. Plaintiff has yet to receive any compensation from defendants' severe continuing wrongdoing since 1964.

Further, affiant sayeth not.

s/DONALD EDGAR JOHNSON"

5/17/96 Respondent LANDMAN LATIMER CLINK & ROBB Partnerships's Reprsentative Attorney Steven C. Kohl LIED To Petitioner Don And Magistrate Brenneman That He Filed An Appearance On behalf Of LANDMAN LATIMER CLINK & ROBB, P.C., Withdrew From The Corporation In 1992, And His Prior Appearance "Terminated With The Termination Of The Underlying Proceedings":

"...I filed an appearance on behalf of one of the named defendants Landman, Latimer, Clink & Robb, P.C. * * * Judge Gibson dismissed this action and your subsequent appeal of Judge Gibson's dismissal to the United States Court of Appeals for the Sixth Circuit was also dismissed. I believe that I did file an appearance on behalf of Landman, Latimer, Clink & Robb in the United States Court of Appeals for the Sixth Circuit on your initial appellate filing. As both the District Court action and the subsequent appeal have now terminated through final orders, it is my belief that any responsibility I may have had as counsel of record has also terminated. * * * s/Steven C. Kohl. cc: Magistrate Hugh W. Brenneman, Jr."

May, 1996: Since Randy's 1956 birth, Don became more and more convinced that he was cousin Jim McCormick's son.

> "If it walks like a duck and quacks like a duck, it must be a duck."

And when Randy Van Johnson requested a copy of Don's Will, that was the last straw. And Don stopped contact with him ever since. 1981

(Don's so-called "daughter" Darlynn Jo Johnson/Montoya-etc -- who became "owned" by gangs and mothered white and black children, then "lost" them -- had already stopped providing her address or any contact with Don).

6/28/96: The Muskegon Hts. Donald E. Johnson, who allegedly signed Donald Edgar Johnson's pertinent documents for bad faith State agent interest groups' stealing Don's private properties, DIED.

> "...Mr. Johnson was also a member of the Muskegon City Commission, serving 3 terms as Mayor and was co-organizer of **Muskegon Federal Credit Union** * * * Johnson was elected to the commission in 1964 and spent 18 years there." 6/28/96 Muskegon Chronicle. Joint Appx Index, p 55,59

(Muskegon Co-Op Federal Credit Union has been and is represented by respondent O'TOOLE).

7/9/96: An Attempt Was Made On "Whistle-Blower" Don's life By A Fast-Moving Car By A Gang Of Blacks Targeting Don's Remaining Private Properties stored In Interspace Unlimited LCC Storage Facility, 1657 S. Getty St., Muskegon.

8/4/97: Don Filed His Objections To The Magistrate's 8/1/97-Filed Report And Recommendation:

> "U.S. DISTRICT COURT-WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION File No. 1:90-CV-175
> Hon. Benjamin F. Gibson
> RELATED: Mich. SupremCt/ #97521
> U.S. Supreme Ct. #94-146, #95-934
> 6th Cir Ct. Of Appeals #94-1826/1979

CLASS ACTION REQUESTED
Three-Judge Court Requested

DONALD EDGAR JOHNSON,
Plaintiff,

V.

PLAINTIFF'S EMERGENCY MOTION TO ALTER, AMEND, OR VACATE THE 7/31/97 REPORT AND RECOMMENDATION; AND, IN THE ALTERNATIVE, TO VACATE THE 12/19/90 JUDGMENT AND 1/5/94 ORDER

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., THE ESTATE OF CARL A. Johnson, SR., THE LAW FIRMS OF LANDMAN LATIMER CLINK & ROBB. CULVER LAGUE & McNALLY, O'TOOLE STEVENS JOHNSON KNOWLTON & ROLF, O'TOOLE JOHNSON POTTER ROLF GRAFTON & EKLUND, P.C., THE STATE OF MICHIGAN, And ROBERT J. DANHOF, Michigan Court Of Appeals Chief Judge, Jointly And Severally,
Defendants.

NOW COMES Donald Edgar Johnson, 24-Years-Nonlawyer-In-Pro Per, who pursuant to FRCVP 59(e) moves the Court to alter, amend, or vacate the Magistrate Judge Brenneman 7/31/97 Report And Recommendation and, in the alternative, to vacate its 12/19/90 Judgment plus 1/5/94 Order.

A Brief in support is attached. * * *

QUESTION

I. WHETHER NONLAWYER'S POST-APPEALS RULE 60(b)(6) PETITION FOR 28 USC §§ 144,2283,2284 RELIEF **WITH CONSTITUTIONAL CLAIMS** -- THAT HIS SUBSTANTIAL PROPERTIES WERE TAKEN BY STATE'S AGENTS FOR PUBLIC USE WITHOUT COMPENSATION AND THAT HIS FEDERAL QUESTION-INTERFERING WITH CIVIL RIGHTS CLASS ACTION AMENDED COMPLAINT'S RES JUDICATA DISMISSAL WAS PROCURED AND PROLONGED BY FRAUDS UPON THE COURTS WITHOUT DUE PROCESS -- MUST BE FILED, REVIEWED FOR NONFRIVOLOUSNESS, PROVIDED A 3 JUDGE DISTRICT COURT'S RULING, AND APPEALED TO SUPREME COURT -- RATHER THAN NOT BE FILED, REJECTED AS FRIVOLOUS, PROVIDED SAME ONE JUDGE DISTRICT COURT FOR DETERMINING IF NONLAWYER SHOULD BE HELD IN CONTEMPT FOR DISREGARDING ORDER TO OBTAIN LEAVE FROM SAME MAGISTRATE BEFORE ATTEMPTING TO FILE, AND APPEALED

TO COURT OF APPEALS?

II. WHETHER THIS COURT SHOULD VACATE ITS 12/19/90 JUDGMENT AND 4/17/92 ORDER? * * * Allstate v. Michigan Carpenters' Coun. H. & W. Fund (1991 WD Mich) 760 F Supp 665,668 * * * Armour v. Ohio, (1991 CA6 Oh) 925 F2d 987 * * * Hernandez v. Finley (1979 ND Ill ED) 471 F Supp 516; affd 440 US 951, 59 LEd2d 765, 99 S Ct 1488 * * * Huguley v. General Motors Corp. (1994 CA6 Mich) 35 F3d 1052 * * * Injunction of State Proceedings, 66 LEd2d 903 * * * Mertik v Blalock (1993 CA6 Oh) 983 F2d 1353 * * * Overbee v. Van Waters & Rogers (1985 CA6 Oh) 765 F2d 578 * * * U.S. v.Twitty (1995 CA6 Mi) 44 F3d 410 * * * 28 USCA §§ 144,636, 1253,2283,2284,2844; 42 USC §§ 1983,1985(2)(3); FRCVP 60(b)(6)..."

8/8/97: Don's Supplement To 8/4/97 Emergency Objections To Magistrate's Report & Recommendation Certified Facts With Copies Of 1964-65 Ledger Sheets And 3 1964-97 Constitutional Claims:

"...Constitutional Claim #1: Between 1964 and 1973, THE DEFENDANTS CONFIDENCE GAME-UNDER THREAT OF VIOLENCE TOOK Don's near-total private properties worth $40,000-$1,000,000 for their public/political/private use without compensation in violation of Amendments 5,14.

Constitutional Claim #2: Between 1973 and 1994, the defendants procured and prolonged Don's Breach of Contract-Conversion-Libel & Slander Plus Defendant Estate Claim dismissals by frauds upon the courts without due process-equal protection-just compensation in violation of Amendments 1,5,14.

Plaintiff Don is a member of a class of nonlawyer public service provider victims of State agents' unconstitutional unlawful tortious conduct -- a class which is the object of invidious discriminations.

CONSTITUTIONAL CLAIM #3: Between 1990 and 1997, the defendants procured and prolonged Don's federal question-interfering with civil rights class action amended complaint's res judicata dismissal by frauds upon the courts[n4]

without due process[n5] in violation of Amendments 1,5,14."

8/9/97 Don's 2nd Supplement To 8/4/97 Objections Detailing Reasons For Vacating The 12/19/90 Judgment Plus 1/5/94 Order On Ground Of Frauds Upon The Courts With Attached "Twenty-Two Court Orders Interfering With Civil Rights In State Courts & U.S. Supreme Court" Fraudulently Omitted From Defendants' 3/21/90 Dossier Of Judgments.

8/15/97 Emergency Motion To Alter Or Amend Court Judge's 8/13/97-Filed Order (Followed By 2 Supplements).

8/26/97 Denied petition to vacate judgment and provide a different judge than Judge Gibson.[1841]

9/97-4/98 As If Programmed, A Dentist Filled Don's Mouth With A Handful Of Liquid From Another Room And Don Became Infected Requiring Expensive Root Canal Treatment, Etc. And His Personal Computerized Legal Files Became Unavailable By Malfunctioning "Obsolete" Word Processor Locally Labeled "Beyond Repair". And, In Another Incident, Don Suddenly Lost About 20% Vision During An Eye Exam And Nearly Lost His Drivers License In Muskegon County.

10/31/97 Respondents Wrote Court Of Appeals That They Would Not Be Participating In Appeals.

10/31-12/22/97 Petitioner Don Requested That His Joint Appendix Volumes I-VIII (Over 2,000 Pages) Be Adopted As Part Of Current Record In Court Of Appeals. And There Was No Response.

JULY-1999 Respondent Carl-Jr's son told Don that respondent Richard had recently suffered a stroke.

8/3/99 Don mailed a proposed Order to the court of appeals containing the following:

"1. That respondent Carl A. Johnson, Jr. shall immediately file his sworn affidavit under penalty of perjury: (a) whether he

attended a 9/25/64 meeting with Muskegon Bank & Trust Co. President Frank Buck, respondent Richard Johnson, and Don wherein Richard held up his $4,000 signifying his acceptance of a plan to establish a $6,000 bank escrow for purchase of a resort liquor license, (b) whether he saw Don hand over to Richard Carl-Jr's $1100 plus Don's $900 on 9/28/64 before realtor A.J. "Tony" Mark solicited Don's 9/28/64 Power of Attorney[393] to Richard; (c) whether Carl-Jr never returned to Don a second memo of collateral for $1100 dated 9/25/64[752H] looking like a promissory note; (d) whether Carl-Jr had three memos of collateral for the same[752H] $1100: said 9/25/64 memo, the 9/28/64 IOU, and an $1100 portion[752b,586] of Don's ill-gotten signed 4/15/65 invalid $20,600 note[567,573, 588,590] still held by respondent Thomas J. O'Toole's ex-partner, attorney William Hipkiss, and/or his privies.

2. That respondent Richard Gordon Johnson shall immediately file his sworn affidavit under penalty of perjury: (a) whether he had joint control of all moneys used to 11/5/64-3/18/65 purchase the Musikist nightclub land-building and liquor licenses in Richard's name under Don's 9/28/64 power of attorney; (b) whether Don never had full custody/control of the 11/5/64-3/18/65 moneys used to purchase the nightclub; (c) whether Don's 9/25/64-3/18/65 promissory notes to Richard, Carl-Jr, and Carl-Sr were really memos of collateral in the family venture until its incorporation; (d) whether Richard insisted on Don's signing the 1/11/65 signature card[448] and the respondent LANDMAN firm-prepared 2/9/65 Trust Agreement[1584] disguising Richard as a moneylender to Don; (e) whether Don's signed[590] or unsigned 4/15/65 $20,600 promissory note[573] and mortgage[574] were invalid for want of consideration to Don; (f) whether Richard, Carl-Jr, and Carl-Sr 9/28/64-4/15/65 moneys were not loans to Don; (g) whether the Richard, Carl-Jr, and Carl-Sr moneylender 1965 statements to the State of Michigan's Liquor Control Commission were false; and (h) whether Richard 1965-70 refused to

fairly incorporate the family venture, and (i) whether the respondent LANDMAN firm approved and prepared the 5/20-6/26/70 foreclosure papers[577] causing Richard's 1964-69 lawyer, Charles A. Larnard, Jr., to enter his 6/26/70 default judgment in foreclosure against Don as Muskegon County Circuit Judge Charles A. Larnard[580] -- using said ill-gotten $20,600 Donald E. Johnson invalid promissory note,[567] invalid mortgage on the 3521 Hoyt St. nightclub land,[574] and the "1964-99 fraud upon state and federal courts" moneylender disguises; (j) whether respondent Carl-Sr bought out Harry E. Gibson's $8,000 interest in the 4/15/65 $20,600 note[586] before the 5/20/70 foreclosure against Don dba Musikist nightclub,[570] and (k) whether Richard has recently suffered a stroke.

3. That respondent attorney Thomas J. O'Toole shall immediately file his sworn affidavit under penalty of perjury: (a) Whether the attorney O'Toole shown on the 1/13/65 exhibit[540] is he; (b) Whether he accepted $45 from respondent Richard's state agent realtor, A.J. "Tony" Mark to draft or redraft a 1/6/65 appendix[530] to the 12/22/64 state liquor licenses sales agreement;[534] (b) whether he lied to Magistrate Brenneman at the 6/25/90 Hearing that he knew nothing about this transaction, etc.;[337] (c) Whether he conferred with Judge Gibson ex parte at the onset of the 12/5/90 Hearing; and (d) Whether he or his firm's Linda Kaare replaced Don's evidence on Judge Gibson's desk with respondents' "80 Orders-7 Courts" dossier; and (e) whether Muskegon County Prosecutor/Judge Noel P. Fox federal judgeship, Attorney/Judge Benjamin F. Gibson federal judgeship, development of "1551 Glenwood", Sid's Inn liquor licenses, TV Channel 40, or Muskegon Race Course were financed -- involving use of Don's power of attorney, Donald E. Johnson assets, or Jay Corp. assets -- by the FMB Lumberman's Bank, Muskegon Co-Op Federal Credit Union, or CalCarl Corp. represented by respondent O'TOOLE firms.

4. That respondent CULVER law firm's attorney

Kevin B. Even shall immediately file his sworn affidavit under penalty of perjury: (a) whether he refused to work with Don to provide a joint appendix for Court of Appeals 91-1160 by not replying to Don's request; and (b) whether the documents 852-856 are true copies showing that respondents' supplemental appendix consisting of the "80 orders-7 courts" dossier was submitted by defendants-appellees disguised as defendants-appellants; and (c) whether Cherry County Playhouse; West Shore Symphony Orchestra; Muskegon Lake TV, Inc.; Port City Machine & Tool Co.; Johnson Development Co; WKBZ, Inc.; First of America-West Michigan f/k/a Muskegon Bank & Trust Co.; Old Kent-Grand Haven; Comerica Bank f/k/a Hackley Union National Bank & Trust Co.; Muskegon Race Course; CarCal Corp.; or development of "1551 Glenwood" were financed by use of Don's power of attorneys, Donald E. Johnson assets, Johnson Mold & Mfg. Co. assets, or Jay Corp. assets."

9/7/99 6th Cir. Court of Appeals clerks refused to accept Don's box of evidence similar to that shipped to this Court's Clerk on 2/25/00. 2138

End of Appendix

VOLUME 1 VOLUME 3 VOLUME 2

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_____	"Juke Box Pak #1" (All 6 MK & EK107 & Strips)		7.1
_____	SLK144 Vol 3 King of ORGAN WITH A BEAT	S	4.9
_____	MLK143 " " " " " " " "	M	3.9
_____	SLK132 Vol 2 " " " " " "	S	4.9
_____	MLK131 " " " " " " " "	M	3.9
_____	SLK116 Vol 1 " " " " " "	S	4.98
_____	MLK115 " " " " " " " "	M	3.98
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_____	MK101 JOHNSON RAG/HOT TODDY	M	.98
_____	EK107 MOONLIGHT LOVE/TUXEDO JUNCTION/JOHNSON RAG/PERDIDO	M	1.29